

# UNITED STATES DISTRICT COURT

Northern

District of

Utah

UNITED STATES OF AMERICA

V.

Warren David Smith

**JUDGMENT IN A CRIMINAL CASE**

(For Revocation of Probation or Supervised Release)

Case Number: DUTX101CR000100-001

USM Number: 09556-081

Tiffany Johnson

Defendant's Attorney

## THE DEFENDANT:

☒ admitted guilt to violation of condition(s) 2 of the petition of the term of supervision.

☐ was found in violation of condition(s) \_\_\_\_\_ after denial of guilt.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
Allegation #2	Defendant tested positive for Methamphetamine	9/28/2005

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☒ The defendant has not violated condition(s) 1, 3 of the petition and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Defendant's Soc. Sec. No.: 000-00-0438

Defendant's Date of Birth: 11/26/1952

Defendant's Residence Address:

629 South 500 East, Basement Brigham City, Ut 84302

8/29/2006

Date of Imposition of Judgment

Signature of Judge

Paul Cassell

Name of Judge

US District Judge

Title of Judge

Date

8/29/06

Defendant's Mailing Address:

same

DEFENDANT: Warren David Smith  
CASE NUMBER: DUTX101CR000100-001

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of :

18 months

☒ The court makes the following recommendations to the Bureau of Prisons:

Intensive Drug Treatment

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_ with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Warren David Smith  
CASE NUMBER: DUTX101CR000100-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :  
18 months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is be a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Warren David Smith  
CASE NUMBER: DUTX101CR000100-001

Judgment—Page 4 of 6

**SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall participate in drug and/or alcohol treatment, under a co-payment plan, as directed by the US Probation Office.
2. The defendant shall submit to drug and/or alcohol testing, as directed by the US Probation Office.
3. The defendant shall participate in a mental health program, unde a co-payment plan, and take any mental health medication, as prescribed, and as directed by the US Probation Office.

DEFENDANT: Warren David Smith  
CASE NUMBER: DUTX101CR000100-001

Judgment — Page 5 of 6

### CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments set forth on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ 0.00	\$ 0.00
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution or a fine more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Warren David Smith  
CASE NUMBER: DUTX101CR000100-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below); or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay.
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
Special Assessment of \$100 is reinstated from the original offense .

Unless the court has expressly ordered otherwise in the special instruction above, if this judgment imposes imprisonment, payment of criminal monetary penalties is to be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Joint and Several Amount and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

FILED  
U.S. DISTRICT COURT

2006 AUG 30 P 1:57

DISTRICT OF UTAH

BY: \_\_\_\_\_  
DEPUTY CLERK

LARRY R. LAYCOCK (USB No. 4868)  
C.J. VEVERKA (USB 7110)  
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Attorneys for Free Motion Fitness, Inc.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

FREE MOTION FITNESS, INC. f/k/a,  
GROUND ZERO DESIGN CORPORATION,  
a Utah Corporation,

Plaintiff,

v.

CYBEX INTERNATIONAL, INC., a New  
York Corporation,

Defendant.

FREE MOTION FITNESS, INC. f/k/a,  
GROUND ZERO DESIGN CORPORATION,  
a Utah corporation,

Plaintiff,

v.

THE NAUTILUS GROUP, INC. f/k/a  
DIRECT FOCUS, INC., a Washington  
corporation, and NAUTILUS HUMAN  
PERFORMANCE SYSTEMS, INC., a  
Virginia corporation,

Defendants.

Civil Action No. 1:01CV00152 BSJ  
(Consolidated with No. 1:02CV00122)

**[PROPOSED] ORDER AMENDING  
SCHEDULING ORDER TO  
ACCOMMODATE ADDITIONAL  
DISCOVERY**

Honorable Bruce S. Jenkins

Based on the stipulation of the parties, and with good cause appearing, IT IS HEREBY ORDERED that the Scheduling Order in the above referenced matter be amended as follows:

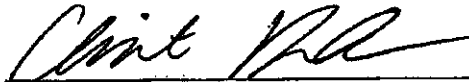
Discovery cutoff:	November 15, 2006
Last day to file dispositive motions:	December 15, 2006
File joint proposed pretrial order:	February ____, 2007
Pre-Trial Conference:	February ____, 2007

Dated this \_\_\_\_ day of \_\_\_\_, 2006

BY THE COURT:

\_\_\_\_\_  
Honorable Bruce S. Jenkins

Approved as to form:



**WORKMAN NYDEGGER**

Larry R. Laycock  
David R. Wright  
C.J. Veverka  
R. Parrish Freeman  
Tige Keller  
Clinton E. Duke  
Attorneys for Plaintiff Free Motion Fitness, Inc.

  
**BERMAN, TOMSIC & SAVAGE**

Casey McGarvey  
Attorney for Defendant Cybex International, Inc.



**DORSEY & WHITNEY LLP**

Paul T. Meikeljohn  
David M. Jacobson  
Brett J. Schlameus  
M. Steven Marsden  
Attorneys for Defendant The Nautilus Group, Inc.



Based on the stipulation of the parties, and with good cause appearing, IT IS HEREBY ORDERED that the Scheduling Order in the above referenced matter be amended as follows:

Discovery cutoff:	November 15, 2006
Last day to file dispositive motions:	December 15, 2006
File joint proposed pretrial order:	February <u>1</u> , 2007
Pre-Trial Conference:	February <u>5</u> , 2007, at 9:30 a.m.

Dated this 30<sup>th</sup> day of August, 2006

BY THE COURT:


  
Honorable Bruce S. Jenkins

Approved as to form:



**WORKMAN NYDEGGER**

Larry R. Laycock  
David R. Wright  
C.J. Veverka  
R. Parrish Freeman  
Tige Keller  
Clinton E. Duke  
Attorneys for Plaintiff Free Motion Fitness, Inc.

  
**BERMAN, TOMSIC & SAVAGE**  
Casey McGarvey  
Attorney for Defendant Cybex International, Inc.

**DORSEY & WHITNEY LLP**

Paul T. Meikeljohn  
David M. Jacobson  
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M. Steven Marsden  
Attorneys for Defendant The Nautilus Group, Inc.

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10 West Broadway, Suite 210  
Salt Lake City, Utah 84101  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,  Plaintiff,  v.  JENNY LEE DUDDLESTON,  Defendant.	ORDER CONTINUING SENTENCING   Case No. 1:05CR-0080TS
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Based upon motion of the defendant, the stipulation of the government and good cause appearing therefor;

IT IS HEREBY ORDERED that the sentencing date of August 31, 2006, at 9 a.m. is stricken and that the matter is reset for sentencing on the 14th day of September 2006, at 9:00 a.m.

DATED this 29th day of August 2006.

BY THE COURT:

  
\_\_\_\_\_  
TED STEWART  
U.S. District Court Judge

# UNITED STATES DISTRICT COURT

Northern

District of

Utah

FILED  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

Norman J. Zilles

JUDGMENT IN A CRIMINAL CASE AUG 29 P 3:39

Case Number: DUTX 1:05CR000115-001

USM Number: 12914-081

Lee C. Rasmussen

Defendant's Attorney

DISTRICT OF UTAH

BY: DEPUTY CLERK

## THE DEFENDANT:

☐ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s)  
which was accepted by the court.

☒ was found guilty on count(s) Counts 1, 3 and 5 of the Indictment  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 USC § 1920	Worker's Compensation Fraud		1, 3, 5

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☒ Count(s) 2,4,6 of the Indictment ☐ is ☒ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/24/2006

Date of Imposition of Judgment

*Tena Campbell*

Signature of Judge

Tena Campbell  
Name of Judge

District Court Judge  
Title of Judge

8-29-2006  
Date

DEFENDANT: Norman J. Zilles  
CASE NUMBER: DUTX 1:05CR000115-001

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

☐ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends to the BOP that the dft be incarcerated at a facility in or near Phoenix, Arizona. The Court also recommends that the dft participate in available drug and alcohol treatment programs as well as available educational programs.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Norman J. Zilles  
CASE NUMBER: DUTX 1:05CR000115-001

## PROBATION

The defendant is hereby sentenced to probation for a term of :

36 Months

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

## STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Norman J. Zilles

CASE NUMBER: DUTX 1:05CR000115-001

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall maintain full-time, verifiable employment or participate in academic or vocational development throughout the term of supervision as deemed appropriate by the USPO.
2. The defendant is to inform any employer or prospective employer of his current conviction and supervision status.
3. The defendant shall submit his person, residence, office or vehicle to a search, conducted by a USPO at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
4. The defendant shall refrain from incurring new credit charges or opening additional lines of credit unless he is in compliance with the established payment schedule and obtains the approval of the USPO.
5. The defendant shall provide the probation office access to all requested financial information.

DEFENDANT: Norman J. Zilles

CASE NUMBER: DUTX 1:05CR000115-001

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 300.00	\$ 2,000.00	\$ 3,596.10

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
United States Department of Labor			
Denver FECA Office			
P.O. Box 894204			
Los Angeles, CA 90189	\$3,596.10	\$3,596.10	100%
Ref Claim No. 122013438			

<b>TOTALS</b>	\$ <u>3,596.10</u>	\$ <u>3,596.10</u>
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Norman J. Zilles  
CASE NUMBER: DUTX 1:05CR000115-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 300.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☒ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☒ Payment in equal monthly (e.g., weekly, monthly, quarterly) installments of \$ 50.00 over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

SPA \$300.00 is due and payable immediately.

Fine of \$2,0000 is due immediately, and shall be payable at a minimum rate of \$50 per month.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.



Pages 4 - 10  
are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document

# UNITED STATES DISTRICT COURT

NORTHERN

District of

FILED  
U.S. DISTRICT COURT  
UTAH

UNITED STATES OF AMERICA

V.

LUIS ENRIQUE DIAZ-PORTILLO

JUDGMENT IN A CRIMINAL CASE 1: 54

Case Number: DUTX106CR000043-001

USM Number: 13644-081

Rob Hunt

Defendant's Attorney

## THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Indictment

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8 U.S.C. 1326	Reentry of Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_

☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/25/2006

Date of Imposition of Judgment



Signature of Judge

Paul Cassell

Name of Judge

US District Judge

Title of Judge

Date

8/29/06

DEFENDANT: LUIS ENRIQUE DIAZ-PORTILLO  
CASE NUMBER: DUTX106CR000043-001

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

Sixty-three (63) months.

☒ The court makes the following recommendations to the Bureau of Prisons:

that defendant serve near Lompoc, CA to facilitate family visitation and that he participate in a intensive drug abuse treatment program if space is available.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: LUIS ENRIQUE DIAZ-PORTILLO  
CASE NUMBER: DUTX106CR000043-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

Twenty-four (24) months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: LUIS ENRIQUE DIAZ-PORTILLO

CASE NUMBER: DUTX106CR000043-001

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall not illegally re-enter the United States. In the event that the defendant should be released from confinement without being deported, he shall contact the United States Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the United States Probation Office in the District of Utah within 72 hours of arrival in the United States.

DEFENDANT: LUIS ENRIQUE DIAZ-PORTILLO

CASE NUMBER: DUTX106CR000043-001

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>

<b>TOTALS</b>	\$ <u>0.00</u>	\$ <u>0.00</u>	
---------------	----------------	----------------	--

☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: LUIS ENRIQUE DIAZ-PORTILLO  
CASE NUMBER: DUTX106CR000043-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
Special assessment fee of \$100 due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 10

are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document



**In the United States District Court  
for the District of Utah, Central Division**

FILED  
U.S. DISTRICT COURT  
2006 AUG 29 P 2:47

CARL B. STEPHENS,

Plaintiff,

vs.

SHARON N. HOLLAND, individual and as  
Trustee of the Stephens Family Trust,

Defendant.

DISTRICT OF UTAH

**ORDER OF DISMISSAL**

**Case No. 1:06 CV 026 JTG**

This case was filed on February 15, 2006. Since that time no summons and complaint has been served upon the defendant. June 15, 2006, marks the 120<sup>th</sup> day after the complaint was filed. Rule 4(m) of the Federal Rules of Civil Procedure states:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

Based upon the foregoing rule, the Court held a Show Cause hearing on June 29, 2006 at 11:45 a.m. At that time plaintiff failed to appear.

Based on the foregoing, it is hereby

**ORDERED**, that this action is dismissed without prejudice for failure to prosecute.

DATED this 29<sup>th</sup> day of August, 2006.

  
J. THOMAS GREENE  
UNITED STATES DISTRICT JUDGE

United States District Court  
for the District of Utah

**Request and Order for Modifying Conditions of Supervision**

**With Consent of the Offender**

*(Waiver of hearing attached)*

FILED  
U.S. DISTRICT COURT

2006 AUG 29 P 4: 23

DISTRICT OF UTAH

Name of Offender: **Jeffrey Heal**

Docket Number: **2:03-CR-00590-001-DB**

DEPUTY CLERK

Name of Sentencing Judicial Officer: **Honorable Dee V. Benson**  
**Chief United States District Judge**

Date of Original Sentence: **July 19, 2005**

Original Offense: **Possession of a Firearm by a Convicted Felon**

Original Sentence: **30 Months BOP Custody/36 Months Supervised Release**

Type of Supervision: **Supervised Release** Supervision to Begin: **December 1, 2006**

**PETITIONING THE COURT**

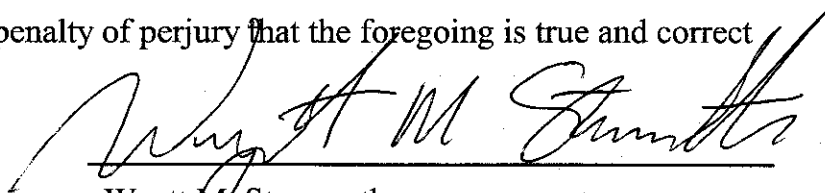
☒ To modify the conditions of supervision as follows:

The defendant shall reside in a community treatment center for a period of up to 180 days, with work release, educational release, medical release, release to attend religious services, release to participate in treatment, or other approved leave as deemed appropriate by the probation office or community treatment center.

**CAUSE**

The defendant will release from the Bureau of Prisons on December 1, 2006. He does not have an appropriate release residence and finds himself without a place to reside; therefore, a placement at the community treatment center is recommended.

I declare under penalty of perjury that the foregoing is true and correct



Wyatt M. Stanworth

U.S. Probation Officer

Date: August 25, 2006

**THE COURT ORDERS:**

- ☒ The modification of conditions as noted above  
☐ No action  
☐ Other



Honorable Dee V. Benson  
Chief United States District Judge

Date: 8-29-06

PROB 49

Jeffrey Heal

2:03-CR-00590-001-DB

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
PROBATION AND PRETRIAL SERVICES OFFICE


WAIVER OF RIGHT TO HEARING PRIOR TO  
MODIFICATION OF CONDITIONS OF SUPERVISION

I have been advised by United States Probation Officer Wyatt M. Stanworth that he has submitted a petition and report to the Court recommending that the Court modify the conditions of my supervision in Case No. 2:03-CR-00590-001-DB. The modification would be:


The defendant shall reside in a community treatment center for a period of up to 180 days, with work release, educational release, medical release, release to attend religious services, release to participate in treatment, or other approved leave as deemed appropriate by the probation office or community treatment center.

I understand that should the Court so modify my conditions of supervision, I will be required to abide by the new condition(s) as well as all conditions previously imposed. I also understand the Court may issue a warrant and revoke supervision for a violation of the new condition(s) as well as those conditions previously imposed by the Court. I understand I have a right to a hearing on the petition and to prior notice of the date and time of the hearing. I understand that I have a right to the assistance of counsel at that hearing.

Understanding all of the above, I hereby waive the right to a hearing on the probation officer's petition, and to prior notice of such hearing. I have read or had read to me the above, and I fully understand it. I give full consent to the Court considering and acting upon the probation officer's petition to modify the conditions of my supervision without a hearing. I hereby affirmatively state that I do not request a hearing on said petition.

  
Jeffrey Heal

8-23-06  
Date

  
Witness: Paul Perona  
Bureau of Prisons Case Manager

United States Probation Office  
for the District of Utah

**REPORT ON OFFENDER UNDER SUPERVISION**

Name of Offender: **Damon Hansen**

Docket Number: **2:03-CR-00923-001-DAK**

Name of Sentencing Judicial Officer: **Honorable Dale A. Kimball**  
**United States District Judge**

Date of Original Sentence: **June 30, 2004**

Original Offense: **Possession of an Unregistered Sawed Off Shotgun**

Original Sentence: **18 Months BOP Custody/36 Months Supervised Release**

Type of Supervision: **Supervised Release** Supervision Began: **April 22, 2005**

---

**ADMINISTRATIVE STAFFING SUPERVISION REPORT**

On August 24, 2006, the defendant appeared before Supervising United States Probation Officer Kevin McKenna for an administrative staffing to answer to allegations of technical noncompliance and agree to new control and correctional strategies (copy attached).

Considering that the defendant has accepted responsibility for this behavior and has agreed to the intervention remedies, it is recommended that no further adverse action be taken.

Administrative staffings are held for offenders who violate the conditions of their supervision and are not identified as an immediate third-party risk to the community. The Court will be promptly informed of any further violations.

If the Court desires more information or another course of action, please contact me at 535-4252.

Respectfully submitted,

by



Richard G. Law  
United States Probation Officer  
August 24, 2006

Attachment

OK - DAK  
8-25-2006

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
PROBATION AND PRETRIAL SERVICES OFFICE

**Damon Hansen**

**Docket No. 2:03-CR-00923-001-DAK**

**VIOLATION  
ADMINISTRATIVE STAFFING**

United States Probation Officer Richard G. Law alleges the following violations of supervised release:

**Allegation No. 1:** On August 5, 2006, the defendant consumed alcohol prior to driving his vehicle. The defendant was involved in a single-car accident, after which it was determined that he was driving while under the influence of alcohol. The defendant was cited for Driving Under the Influence of Alcohol, Speed Too Fast for Conditions, Open Container, and Conditional License Violation.



**THE DEFENDANT ADMITS ALLEGATIONS**

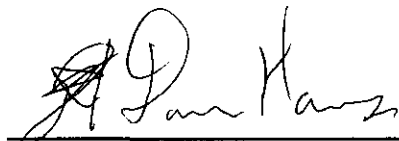
                     **THE DEFENDANT DENIES ALLEGATIONS**

As per the administrative staffing on August 24, 2006, before Supervising United States Probation Officer Kevin McKenna and United States Probation Officer Richard Law and by copy of this notice, the defendant agrees to the following control and correctional intervention strategies:

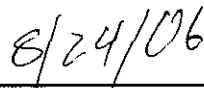
1. **The defendant will be referred for drug and/or alcohol abuse treatment and will be required to attend individual and group counseling sessions as, directed by the United States Probation Office;**
2. **The defendant will be referred for mental health treatment and will be required to attend individual and group counseling sessions, as directed by the United States Probation Office; and**
3. **The defendant will comply with the special condition that restricts him from possessing or consuming alcohol.**

The allegations have been explained and presented to me and I understand and will comply with the intervention remedies listed on this document. I fully understand that all previous conditions of supervision, including fine payments, remain intact.

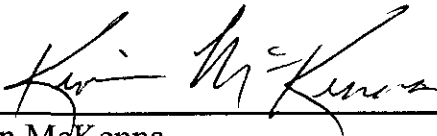
I further understand that if I commit any subsequent violations which result in a hearing before the Court, the charges listed herein may be re-alleged as violations for adjudication before the Court.



Damon Hansen



DATE



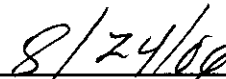
Kevin McKenna  
Supervising United States Probation Officer



DATE



Richard G. Law  
United States Probation Officer



DATE

*Proposed order submitted by:*

Sarah G. Schwartz, 9921  
HOLLAND & HART LLP  
60 E. South Temple, Suite 2000  
Salt Lake City, Utah 84111-1031  
(801) 595-7800

*Attorneys for Richard D. Clayton, as Receiver for  
NuWay Holding, Inc., et al.*

FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

**AUG 29 2006**

MARKUS B. ZIMMER, CLERK  
BY \_\_\_\_\_  
DEPUTY CLERK

---

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

---

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

DAVID M. WOLFSON; NUWAY  
HOLDING, INC., a Nevada corporation;  
MOMENTOUS GROUP, LLC, a Utah  
limited liability company; LEEWARD  
CONSULTING GROUP, LLC, a Utah  
limited liability company; SUKUMO  
LIMITED, a company incorporated in the  
British Virgin Islands (a.k.a SUKUMO  
GROUP, LTD., FUJIWARA GROUP,  
FIRST CHARTERED CAPITAL  
CORPORATION, FIRST COLONIAL  
TRUST, FIRST CHINA CAPITAL AND  
INTERNATIONAL INVESTMENT  
HOLDING); MICHAEL SYDNEY  
NEWMAN (a.k.a MARCUS WISEMAN);  
STEM GENETICS, INC., A Utah  
corporation; HOWARD H. ROBERTSON;  
GINO CARLUCCI; G & G CAPITAL,  
LLC, an Arizona and Utah limited liability  
company; F10 OIL AND GAS

**ORDER CONFIRMING  
BOX ELDER TRANSACTION**

Civil No. 2:03CV-00914

Judge Dale A. Kimball  
Magistrate David O. Nuffer

PROPERTIES, INC.; JON H. MARPLE; )  
MARY E. BLAKE; JON R. MARPLE; )  
GRATEFUL INTERNET ASSOCIATES, )  
L.L.C., a Colorado limited liability )  
company; DIVERSIFIED FINANCIAL )  
RESOURCES CORPORATION, a )  
Delaware corporation; JOHN CHAPMAN; )  
VALESC HOLDINGS, INC., a New Jersey )  
corporation; JEREMY D. KRAUS; )  
SAMUEL COHEN; NCI HOLDINGS, )  
INC., a Nevada corporation )  
)

Defendants.

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Based upon the pleadings, the matters coming before the Court at the hearing on August 29, 2006 at 3:00 p.m., and being otherwise informed in the premises, the Court

HEREBY FINDS AND ORDERS:

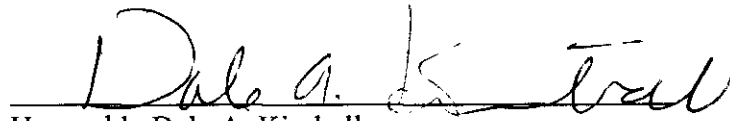
1. This Court previously appointed Richard D. Clayton as Receiver for Diversified Holdings II, Inc., Diversified Holdings III, Inc., Diversified Holdings V, Inc., Diversified Land & Cattle Co., Great Basin Water Corp., Lexington One Mile East, Little Pigeon, Lexington Three Mile East Terrace Mountain Estates, Inc., and Lexington Four Mile East Terrace Mountain Estates, Inc. *See* Order Expanding and Clarifying Receivership. Therefore, as Receiver for these entities, the Receiver controls the property described in Exhibit A and may have rights in the property described in Exhibit B.

2. The property described in Exhibits A and B is the subject of a contract with Research Management, Inc. The Receiver's notice and procedure for carrying out the transaction with Research Management, Inc. (referred to as the "Box Elder Transaction"), pursuant to 28 U.S.C. § 2001, are approved and confirmed;



3. The Box Elder Transaction is in the best interest of the Receivership;
4. The Receiver is authorized and directed to finalize the Box Elder Transaction pursuant to the terms outlined in the pleadings and at the hearing. The Box Elder Transaction is hereby confirmed by the Court.

Dated this 29<sup>th</sup> day of August 2006.

  
Honorable Dale A. Kimball  
United States District Court, District of Utah

## **EXHIBIT A**

### **Legal Description of Box Elder County Property Controlled by the Receiver**

Section 9, Township 5 North, Range 18 West, Salt Lake Base and Meridian. Less and Excepting therefrom the West Half of said Section 9.

All of Section 1, Township 6 North, Range 17 West, Salt Lake Base and Meridian. Less and Excepting therefrom the Northeast Quarter and the Southeast Quarter of said Section 1.

The Northeast Quarter and South Half of Section 9, Township 6 North, Range 18 West, Salt Lake Base and Meridian.

All of Section 18, Township 7 North, Range 17 West, Salt Lake Base and Meridian.

All of Section 19, Township 7 North, Range 17 West, Salt Lake Base and Meridian.

All of Section 28, Township 7 North, Range 17 West, Salt Lake Base and Meridian.

All of Section 30, Township 7 North, Range 17 West, Salt Lake Base and Meridian.

All of Section 6, Township 7 North, Range 18 West, Salt Lake Base and Meridian.

All of Section 24, Township 7 North, Range 18 West, Salt Lake Base and Meridian.

All of Section 33, Township 7 North, Range 18 West, Salt Lake Base and Meridian. Less and Excepting therefrom the Northeast Quarter and the Southeast Quarter of said Section 33.

The North Half of the Northwest Quarter, the Southwest Quarter of the Northwest Quarter, the North Half of the Southwest Quarter, the Northeast Quarter of the Northeast Quarter, the Northwest Quarter of the Southeast Quarter, the Southeast Quarter of the Southeast Quarter of Section 1, Township 7 North, Range 19 West, Salt Lake Base and Meridian. Less and Excepting therefrom the

North Half of the Southwest Quarter of said Section 1.

The Northeast Quarter of the Northwest Quarter, the Southwest Quarter of the Northwest Quarter, the Northwest Quarter of the Southwest Quarter, the Southeast Quarter of the Southeast Quarter, the Southeast Quarter of the Southwest Quarter of Section 11, Township 7 North, Range 19 West, Salt Lake Base and Meridian.

The South Half of the South Half of the Northeast Quarter of the Northeast Quarter of Section 35, Township 6 North, Range 18 West, Salt Lake Base and Meridian.

The Northeast Quarter of the Northeast Quarter, the South Half of the Southwest Quarter of the Northeast Quarter, the Southeast Quarter of the Northeast Quarter of Section 32, Township 7 North, Range 17 West, Salt Lake Base and Meridian.

The North Half of the Northeast Quarter of Section 7, Township 7 North, Range 18 West, Salt Lake Base and Meridian.

The Southwest Quarter of the Northwest Quarter of Section 7, Township 7 North, Range 18 West, Salt Lake Base and Meridian.

The Southeast Quarter of the Southeast Quarter of Section 7, Township 7 North, Range 18 West, Salt Lake Base and Meridian.

The Southwest Quarter of the Southeast Quarter of Section 36, Township 4 North, Range 18 West, Salt Lake Base and Meridian.

The North Half, the North Half of the South Half, the Southwest Quarter of the Southwest Quarter, the Southeast Quarter of the Southeast Quarter of Section 11, Township 5 North, Range 18 West, Salt Lake Base and Meridian.

The Northwest Quarter of Section 19, Township 8 North, Range 18 West, Salt Lake Base and Meridian.

The East Half, the South Half of the Southwest Quarter of Section 31, Township 8 North, Range 18 West, Salt Lake Base and Meridian. Less and Excepting therefrom a railroad right of way.

The East Half of the Northwest Quarter, the East Half of the Northeast Quarter, the Northeast Quarter of the Southeast Quarter,

the Southwest Quarter of the Northeast Quarter, the South Half of the Northwest Quarter of the Northeast Quarter, the South Half of the North Half of the Northwest Quarter of the Northeast Quarter of Section 21, Township 11 North, Range 14 West, Salt Lake Base and Meridian.

located in Box Elder County, Utah.

3591927\_1.DOC

## **EXHIBIT B**

### **Legal Description of Box Elder County Property in which Receiver May Have Rights**

All of Section 36, Township 7 North, Range 17 West, Salt Lake Base and Meridian.

Lots 1, 2, 3, 4, the South Half of the North Half of the South Half of Section 2, Township 8 North, Range 14 West, Salt Lake Base and Meridian.

All of Section 16, Township 8 North, Range 14 West, Salt Lake Base and Meridian.

located in Box Elder County, Utah.

Jon D. Williams (8318)  
8 East Broadway, Suite 500  
Salt Lake City, Utah 84111  
(801) 746-1460  
(801) 746-5613  
Attorney for Defendant

---

UNITED STATES DISTRICT COURT  
CENTRAL DIVISION, DISTRICT OF UTAH.

---

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARY McMILLAN,

Defendant.

ORDER SEALING ADDENDUM TO  
SENTENCING MEMORANDUM

Case No. 2:04-CR-470-DAK

---

BASED ON the Defendant's motion, good cause having been shown, the Court herewith  
Orders that the attachment section filed with the Defendant's Sentencing Memorandum be sealed  
until further Order of the Court.

DATED this 29th day of August, 2006.

BY THE COURT:



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Dale A. Kimball  
United States District Court Judge



FILED  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT

2006 AUG 29 P 1:44

DISTRICT OF UTAH, CENTRAL DIVISION

DISTRICT OF UTAH

BY: \_\_\_\_\_  
DEPUTY CLERK

UNITED STATES OF AMERICA,

Case No. 2:04-CR-802

:

2:04-CR-803

Plaintiff-Appellee,

:

ORDER GRANTING

v.

GOVERNMENT'S MOTION FOR

:

EXTENSION OF TIME

KENNETH P. CHURCH,

:

Chief Judge Dee Benson

Defendant-Appellant.

Upon the Motion of the United States of America, and for good cause appearing, it is hereby  
ORDERED that the government shall have until October 16, 2006 to respond to the Defendant-  
Appellant's Brief.

DATED this 29<sup>th</sup> day of August, 2006.

BY THE COURT:

Dee Benson  
Chief Judge



FILED  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT

2006 AUG 29 P 1:44

DISTRICT OF UTAH, CENTRAL DIVISION

DISTRICT OF UTAH

BY: \_\_\_\_\_  
DEPUTY CLERK

UNITED STATES OF AMERICA,

Case No. 2:04-CR-802

:

2:04-CR-803

Plaintiff-Appellee,

:

ORDER GRANTING

v.

GOVERNMENT'S MOTION FOR

:

EXTENSION OF TIME

KENNETH P. CHURCH,

:


Chief Judge Dee Benson

Defendant-Appellant.

Upon the Motion of the United States of America, and for good cause appearing, it is hereby  
ORDERED that the government shall have until October 16, 2006 to respond to the Defendant-  
Appellant's Brief.

DATED this 29<sup>th</sup> day of August, 2006.

BY THE COURT:

  
Chief Judge

---

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**  
**CENTRAL DIVISION**

---

**BRIAN L. ROBERTS,**

**Plaintiff,**

**v.**

**SONY CORPORATION et al.,**

**Defendants.**

**ORDER**

**Case No. 2:04cv673**

**Judge Ted Stewart**

**Magistrate Paul M. Warner**

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This matter was referred to Magistrate Judge Paul M. Warner by District Judge Ted Stewart pursuant to 28 U.S.C. § 636(b)(1)(A). Before the court is Plaintiff Brian L. Roberts's ("Plaintiff") (1) Motion to Reconsider and Vacate Scheduling Order [docket no. 88], (2) Motion for Leave of Court to Amend Complaint [docket no. 96], (3) Amended Motion for Leave of Court to Amend Complaint [docket no. 99], (4) Motion to Withdraw Amended Motion for Leave of Court to Amend Complaint [docket no. 101], and (5) Amended Motion for Leave of Court to File an Amended Complaint [docket no. 103]. The court has carefully reviewed the memoranda submitted by the parties. Pursuant to Utah local rule 7-1(f), the court elects to determine the motion on the basis of the written memoranda and finds that oral argument would not be helpful or necessary. *See* DUCivR 7-1(f).

**(1) Motion to Reconsider and Vacate Scheduling Order:**

In response to the Notice of Initial Pretrial Conference set for June 20, 2006, Defendants

Sony et al. (“Defendants”) assert that on May 12, 2006 they sent to Plaintiff by Federal Express a letter with proposed drafts of the (1) Attorney’s Planning Meeting Report and (2) Scheduling Order and Order Vacating Hearing. In the letter, Defendants requested that Plaintiff make himself available to conduct a rule 26(f) meeting on May 17, 2006 at 5:00 p.m. Plaintiff contends that while the letter and its attachments reached his (or his mother’s) house on May 16, 2006, he did not actually receive it until May 17, 2006 after the meeting was scheduled to take place. Plaintiff did not contact opposing counsel or otherwise respond to the letter because he believed that it was unnecessary for him to do so under local rule DUCivR 16-1 and that he could appear at the Initial Pretrial Conference on June 20, 2006 and address scheduling at that time.

On May 19, 2006, Defendants submitted to the court their proposed Attorney’s Planning Meeting Report and Scheduling Order and Order Vacating Hearing. In these documents, Defendants advised the court that “defense counsel sent a letter on 5/12/06 to plaintiff, who is representing himself *pro se*, to schedule a Rule 26(f) phone conference at 5:00 p.m. P.S.T. on 5/17/06; however, defense counsel was unable to contact plaintiff by phone at the suggested time despite numerous attempts, because plaintiff’s phone was ‘busy.’”

On May 31, 2006, the court entered a Scheduling Order vacating the Initial Pretrial Conference and setting a pretrial schedule as follows: fact discovery to be completed by May 18, 2007; expert discovery to be completed by July 13, 2007; dispositive or potentially dispositive motions to be filed by August 6, 2007, the final pretrial conference to be held on December 18, 2007, and a trial date of January 7, 2008. Plaintiff asserts that this Scheduling Order should be vacated on the grounds that Defendants failed to serve Plaintiff with copies of the Defendants’

Attorney's Planning Meeting Report, the Proposed Scheduling Order, and Proposed Order Vacating Hearing. However, as is evidenced by the certificate of service, these documents were mailed to Plaintiff on May 19, 2006. Furthermore, Plaintiff fails to demonstrate how any of the specific provisions or dates in the Scheduling Order have or will prejudice him. Plaintiff seems to be concerned only with the fact that he did not have the opportunity to attend an Initial Pretrial Conference. Because Plaintiff has not articulated his specific concerns with the dates set in the Scheduling Order, Plaintiff's Motion to Reconsider and Vacate Scheduling Order [docket no. 88] is DENIED. Plaintiff, however, may renew his motion if he can demonstrate actual prejudice.

**(2) Motion for Leave of Court to Amend Complaint:**

Pursuant to rule 15(a) of the Federal Rules of Civil Procedure, leave to amend pleadings "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a); *see also Foman v. Davis*, 371 U.S. 178, 182 (1962) (stating that the mandate of rule 15(a) "is to be heeded" and that "[i]n the absence of any apparent or declared reason . . . the leave sought should, as the rules require, be 'freely given.'" (quoting Fed. R. Civ. P. 15(a)). Accordingly, Plaintiff's Motion for Leave of Court to Amend Complaint [docket no. 96] is GRANTED. Plaintiff is ORDERED to file his Amended Complaint within thirty (30) days of the date of this order.

**(3) Amended Motion for Leave of Court to Amend Complaint, (4) Motion to Withdraw Amended Motion for Leave of Court to Amend Complaint, and (5) Amended Motion for Leave of Court to File an Amended Complaint:**

Plaintiff filed these three motions to correct or replace the Amended Complaint attached as Exhibit A to his Memorandum in Support of Plaintiff's Motion for Leave of Court to Amend Complaint [docket no. 97]. Because Plaintiff's original Motion for Leave of Court to Amend

Complaint [docket no. 96] has been granted, the court finds these motions [docket nos. 99, 101, 103] to be MOOT.

DATED this 30th day of August, 2006.

BY THE COURT:

A handwritten signature in cursive script, reading "Paul M. Warner", written in black ink.

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PAUL M. WARNER  
United States Magistrate Judge

FILED  
U.S. DISTRICT COURT  
2006 AUG 25 P 3:54

DISTRICT OF UTAH

BY: DEPUTY CLERK

RECEIVED

AUG 14 2006

OFFICE OF  
JUDGE TENA CAMPBELL

MARY C. CORPORON #734  
Attorney for Defendant  
CORPORON, WILLIAMS & BRADFORD, P.C.  
405 South Main Street, Suite #700  
Salt Lake City, Utah 84111  
Telephone: (801) 328-1162  
Facsimile: (801) 328-9565

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IN THE UNITED STATES DISTRICT COURT,  
DISTRICT OF UTAH, CENTRAL DIVISION

---

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

RICHARD RUNYAN, LISA RUNYAN,  
BRIAN GERHARTZ,

Defendants.

**ORDER EXTENDING TIME IN WHICH  
DEFENDANT MAY SURRENDER**

Case No. 2:05 CR 00109 TC

Judge Tena Campbell  
Magistrate Judge David O. Nuffer

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Based on the Defendant's Motion for extension of time in which to self-surrender to the facility of incarceration to be designated by the United States Bureau of Prisons, and for good cause appearing;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

That Defendant is granted a ~~four-week~~ **Two-week** extension of time to self-surrender, from September 8, ~~September 22, 2006~~ **September 22, 2006** at the hour of noon.

DATED this 25 day of August, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Tena Campbell". The signature is written in a cursive, flowing style with a large initial "T" and "C".

HONORABLE TENA CAMPBELL  
United States District Court Judge

UNITED STATES DISTRICT COURT

FILED  
U.S. DISTRICT COURT

Central

District of

Utah

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

Jewett Ingram

DISTRICT OF UTAH

Case Number: DUTX205CR000737-001

USM Number: 11624-081

Mark Moffat and Alan Baum

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 2 of the Indictment.

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. §2252(A)(a)(5)(B)	Possession of Child Pornography		2

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_

☒ Count(s) 1 of the Indictment ☒ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/25/2006

Date of Imposition of Judgment

Signature of Judge

Dale A. Kimball

Name of Judge

U.S. District Judge

Title of Judge

Date

August 29, 2006



DEFENDANT: Jewett Ingram  
CASE NUMBER: DUTX205CR000737-001

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

5 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

That the defendant be placed in protective custody while incarcerated.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 2 p.m. on 9/27/2006.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Jewett Ingram

CASE NUMBER: DUTX205CR000737-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

60 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☒ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Jewett Ingram

CASE NUMBER: DUTX205CR000737-001

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall reside in home confinement for the first 5 months of supervision with electronic monitoring. The Court waives the cost of the electronic monitoring to the defendant. The defendant shall have release privileges for employment, religious observances, to attend counseling, as well as any other leave approved by the U. S. Probation Office.
2. The defendant shall register with the state sex offender registration agency in any state where the defendant resides, is employed, carries on a vocation, or is a student, as directed by the probation office. The Court orders that the presentence report may be released to the state agency for purposes of sex offender registration.
3. The defendant shall participate in a mental health and/or sex-offender treatment program as directed by the U. S. Probation Office.
4. The defendant is restricted from visitation with individuals who are under 18 years of age without adult supervision as approved by the U. S. Probation Office.
5. The defendant shall abide by the following occupational restrictions: Any employment shall be approved by the U. S. Probation Office. In addition, if third-party risks are identified, the probation office is authorized to inform the defendant's employer of his supervision status.
6. The defendant shall not possess or use a computer with access to any on-line computer service without the prior written approval of the Court. This includes any Internet service provider, bulletin board system, or any other public or private computer network. Any approval by the Court shall be subject to the conditions set by the Court or the U. S. Probation Office. In addition, the defendant shall: (A) Not possess or use any public or private data encryption technique or program, and (B) Consent to having installed on his computer(s) any hardware or software systems to monitor his computer usage.
7. The defendant shall not view or otherwise access pornography in any format.

CASE NUMBER: DUTX205CR000737-001

## CRIMINAL MONETARY PENALTIES

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00	\$	\$

- If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<b>TOTALS</b>	\$	0.00	\$	0.00
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- \* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Jewett Ingram  
CASE NUMBER: DUTX205CR000737-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 10

are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document

# UNITED STATES DISTRICT COURT

Central

District of

FILED  
U.S. DISTRICT COURT  
Utah

UNITED STATES OF AMERICA

V.

Carlos Zepeta-Soto

JUDGMENT IN A CRIMINAL CASE

2006 AUG 29 P 1:54

DISTRICT OF UTAH

Case Number: DUTX205CR000802-001

USM Number: 13444-081

Robert Hunt

Defendant's Attorney

## THE DEFENDANT:

☒ pleaded guilty to count(s) 1s of the Superceding Indictment

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 USC § 841(a)(1)	Possession of 50 Grams or More of Actual Methamphetamine With Intent to Distribute		1s

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_

☒ Count(s) 2s, 3s ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/28/2006

Date of Imposition of Judgment

Signature of Judge

Paul Cassell

Name of Judge

US District Judge

Title of Judge

Date

8/29/06

DEFENDANT: Carlos Zepeta-Soto  
CASE NUMBER: DUTX205CR000802-001

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

70 months

☒ The court makes the following recommendations to the Bureau of Prisons:

Placement in a facility as close to Phoenix, Az as possible to facilitate family visitation and drug treatment if space is available.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL



DEFENDANT: Carlos Zepeta-Soto  
CASE NUMBER: DUTX205CR000802-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

60 months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Carlos Zepeta-Soto  
CASE NUMBER: DUTX205CR000802-001

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall not illegally re-enter the United States. If the defendant returns to the United States during the period of supervision, he is instructed to contact the USPO in the District of Utah within 72 hours of arrival in the United States.

DEFENDANT: Carlos Zepeta-Soto  
CASE NUMBER: DUTX205CR000802-001

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$ <u>0.00</u>	\$ <u>0.00</u>
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Carlos Zepeta-Soto  
CASE NUMBER: DUTX205CR000802-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 10

are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document

UNITED STATES DISTRICT COURT

FILED  
U.S. DISTRICT COURT  
UTAH

CENTRAL

District of

UNITED STATES OF AMERICA

V.

JUAN CARLOS REYES-RUBIO

JUDGMENT IN A CRIMINAL CASE 3

DISTRICT OF UTAH

Case Number: DUTX205CR000802-002

USM Number: 13015-012

James D. Garrett

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Superceding Indictment

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 USC § 841(a)(1)	Possession of 50 gr. or more of Meth w/ intent to distribute		1s

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_

☒ Count(s) 2s and 3s ☐ is ☒ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/25/2006

Date of Imposition of Judgment



Signature of Judge

Paul Cassell

Name of Judge

US District Judge

Title of Judge

Date

8/29/06

DEFENDANT: JUAN CARLOS REYES-RUBIO  
CASE NUMBER: DUTX205CR000802-002

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

Seventy (70) months.

☒ The court makes the following recommendations to the Bureau of Prisons:

that defendant serve near Taft, CA to facilitate family visitation and that he participate in a intensive drug abuse treatment program if space is available.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: JUAN CARLOS REYES-RUBIO

CASE NUMBER: DUTX205CR000802-002

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

Sixty (60) months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.



DEFENDANT: JUAN CARLOS REYES-RUBIO  
CASE NUMBER: DUTX205CR000802-002

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall not illegally re-enter the United States. In the event that the defendant should be released from confinement without being deported, he shall contact the United States Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the United States Probation Office in the District of Utah within 72 hours of arrival in the United States.

CASE NUMBER: DUTX205CR000802-002

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00	\$	\$

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.



<b>TOTALS</b>	\$	0.00	\$	0.00
---------------	----	------	----	------

- ☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: JUAN CARLOS REYES-RUBIO  
CASE NUMBER: DUTX205CR000802-002

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
Special assessment fee of \$100 due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

DEFENDANT: JUAN CARLOS REYES-RUBIO  
CASE NUMBER: DUTX205CR000802-002  
DISTRICT: UTAH

**STATEMENT OF REASONS**  
**(Not for Public Disclosure)**

**I COURT FINDINGS ON PRESENTENCE INVESTIGATION REPORT**

- A ☒ **The court adopts the presentence investigation report without change.**
- B ☐ **The court adopts the presentence investigation report with the following changes.**  
(Check all that apply and specify court determination, findings, or comments, referencing paragraph numbers in the presentence report, if applicable.)  
(Use page 4 if necessary.)
- 1 ☐ **Chapter Two of the U.S.S.G. Manual** determinations by court (including changes to base offense level, or specific offense characteristics):
- 2 ☐ **Chapter Three of the U.S.S.G. Manual** determinations by court (including changes to victim-related adjustments, role in the offense, obstruction of justice, multiple counts, or acceptance of responsibility):
- 3 ☐ **Chapter Four of the U.S.S.G. Manual** determinations by court (including changes to criminal history category or scores, career offender, or criminal livelihood determinations):
- 4 ☐ **Additional Comments or Findings** (including comments or factual findings concerning certain information in the presentence report that the Federal Bureau of Prisons may rely on when it makes inmate classification, designation, or programming decisions):
- C ☐ **The record establishes no need for a presentence investigation report pursuant to Fed.R.Crim.P. 32.**

**II COURT FINDING ON MANDATORY MINIMUM SENTENCE (Check all that apply.)**

- A ☒ No count of conviction carries a mandatory minimum sentence.
- B ☐ Mandatory minimum sentence imposed.
- C ☐ One or more counts of conviction alleged in the indictment carry a mandatory minimum term of imprisonment, but the sentence imposed is below a mandatory minimum term because the court has determined that the mandatory minimum does not apply based on
- ☐ findings of fact in this case
- ☐ substantial assistance (18 U.S.C. § 3553(e))
- ☐ the statutory safety valve (18 U.S.C. § 3553(f))

**III COURT DETERMINATION OF ADVISORY GUIDELINE RANGE (BEFORE DEPARTURES):**

Total Offense Level: \_\_\_\_\_  
Criminal History Category: \_\_\_\_\_  
Imprisonment Range: \_\_\_\_\_ to \_\_\_\_\_ months  
Supervised Release Range: \_\_\_\_\_ to \_\_\_\_\_ years  
Fine Range: \$ \_\_\_\_\_ to \$ \_\_\_\_\_

- ☐ Fine waived or below the guideline range because of inability to pay.

DEFENDANT: JUAN CARLOS REYES-RUBIO  
CASE NUMBER: DUTX205CR000802-002  
DISTRICT: UTAH

**STATEMENT OF REASONS**  
**(Not for Public Disclosure)**

**IV ADVISORY GUIDELINE SENTENCING DETERMINATION (Check only one.)**

- A ☐ The sentence is within an advisory guideline range that is not greater than 24 months, and the court finds no reason to depart.
- B ☐ The sentence is within an advisory guideline range that is greater than 24 months, and the specific sentence is imposed for these reasons.  
(Use page 4 if necessary.)
- C ☒ The court departs from the advisory guideline range for reasons authorized by the sentencing guidelines manual.  
(Also complete Section V.)
- D ☐ The court imposed a sentence outside the advisory sentencing guideline system. (Also complete Section VI.)

**V DEPARTURES AUTHORIZED BY THE ADVISORY SENTENCING GUIDELINES (If applicable.)**

**A The sentence imposed departs (Check only one.):**

- ☒ below the advisory guideline range  
☐ above the advisory guideline range

**B Departure based on (Check all that apply.):**

**1 Plea Agreement (Check all that apply and check reason(s) below.):**

- ☐ 5K1.1 plea agreement based on the defendant's substantial assistance  
☒ 5K3.1 plea agreement based on Early Disposition or "Fast-track" Program  
☐ binding plea agreement for departure accepted by the court  
☐ plea agreement for departure, which the court finds to be reasonable  
☐ plea agreement that states that the government will not oppose a defense departure motion.

**2 Motion Not Addressed in a Plea Agreement (Check all that apply and check reason(s) below.):**

- ☐ 5K1.1 government motion based on the defendant's substantial assistance  
☐ 5K3.1 government motion based on Early Disposition or "Fast-track" program  
☐ government motion for departure  
☐ defense motion for departure to which the government did not object  
☐ defense motion for departure to which the government objected

**3 Other**

- ☐ Other than a plea agreement or motion by the parties for departure (Check reason(s) below.):

**C Reason(s) for Departure (Check all that apply other than 5K1.1 or 5K3.1.)**

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> 4A1.3 Criminal History Inadequacy                         | <input type="checkbox"/> 5K2.1 Death                             | <input type="checkbox"/> 5K2.11 Lesser Harm                             |
| <input type="checkbox"/> 5H1.1 Age   | <input type="checkbox"/> 5K2.2 Physical Injury                   | <input type="checkbox"/> 5K2.12 Coercion and Duress                     |
| <input type="checkbox"/> 5H1.2 Education and Vocational Skills                     | <input type="checkbox"/> 5K2.3 Extreme Psychological Injury      | <input type="checkbox"/> 5K2.13 Diminished Capacity                     |
| <input type="checkbox"/> 5H1.3 Mental and Emotional Condition                      | <input type="checkbox"/> 5K2.4 Abduction or Unlawful Restraint   | <input type="checkbox"/> 5K2.14 Public Welfare                          |
| <input type="checkbox"/> 5H1.4 Physical Condition                                  | <input type="checkbox"/> 5K2.5 Property Damage or Loss           | <input type="checkbox"/> 5K2.16 Voluntary Disclosure of Offense         |
| <input type="checkbox"/> 5H1.5 Employment Record                                   | <input type="checkbox"/> 5K2.6 Weapon or Dangerous Weapon        | <input type="checkbox"/> 5K2.17 High-Capacity, Semiautomatic Weapon     |
| <input type="checkbox"/> 5H1.6 Family Ties and Responsibilities                    | <input type="checkbox"/> 5K2.7 Disruption of Government Function | <input type="checkbox"/> 5K2.18 Violent Street Gang                     |
| <input type="checkbox"/> 5H1.11 Military Record, Charitable Service,<br>Good Works | <input type="checkbox"/> 5K2.8 Extreme Conduct                   | <input type="checkbox"/> 5K2.20 Aberrant Behavior                       |
| <input type="checkbox"/> 5K2.0 Aggravating or Mitigating Circumstances             | <input type="checkbox"/> 5K2.9 Criminal Purpose                  | <input type="checkbox"/> 5K2.21 Dismissed and Uncharged Conduct         |
|  | <input type="checkbox"/> 5K2.10 Victim's Conduct                 | <input type="checkbox"/> 5K2.22 Age or Health of Sex Offenders          |
|  |  | <input type="checkbox"/> 5K2.23 Discharged Terms of Imprisonment        |
|  |  | <input type="checkbox"/> Other guideline basis (e.g., 2B1.1 commentary) |

**D Explain the facts justifying the departure. (Use page 4 if necessary.)**

Pages 7 - 10

are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

---

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	Case No. 2:05CR00805 TC
	:	
v.	:	
	:	
DENNIS B. EVANSON, et al.,	:	<b>ORDER REGARDING</b>
	:	<b>PENDING MOTIONS</b>
	:	
Defendants	:	Magistrate Judge David Nuffer

---

IT IS HEREBY ORDERED that the Government shall file a response to the following motions, which are referred to the magistrate judge, on or before September 11, 2006, and any replies shall be filed on or before September 15, 2006.

- 116 Defendant's MOTION for Bill of Particulars filed 08/25/2006 by: Wayne F. Demeester ;
- 124 Defendant's MOTION to Produce Exculpatory Evidence, Impeaching Evidence and Rule 404(b) Evidence filed 08/25/2006 by: Wayne F. Demeester;
- 126 Defendant's MOTION for Disclosure of Expert Testimony filed 08/25/2006 by Wayne F. Demeester;
- 129 Defendant's MOTION to Compel GOVERNMENT TO DISCLOSE BRADY INFORMATION filed August 25, 2006, by Graham R. Taylor;
- 133 Defendant's MOTION to Sever Defendant filed August 25, 2006 by Graham R. Taylor;

- 138 REQUEST FOR NOTICE OF INTENT TO USE 404(b) EVIDENCE filed August 25, 2006, by Graham R. Taylor
- 144 Defendant's MOTION for Joinder in Defendant Taylor's Motion re [129] Defendant's MOTION to Compel GOVERNMENT TO DISCLOSE BRADY INFORMATION filed 08/28/2006 by Brent Metcalf; and
- 153 Defendant's MOTION for Disclosure of Rule 404(b) Evidence August 28, 2006, by Brent H. Metcalf.

IT IS FURTHER ORDERED that if any party contends any other motion is pending before the magistrate judge, that party should file a notice with the court on or before September 8, 2006. According to the records of the magistrate judge, other motions pending in this case are all pending before the district judge.

- 113 Defendant Stephen F. Petersen's MOTION to Suppress Evidence
- 114 Defendant Wayne F. Demeester 's MOTION to Permit Counsel to Orally Examine Prospective Jurors
- 121 Defendant Wayne F. Demeester 's MOTION For Leave to Submit Jury Questionnaire
- 122 Defendant Wayne F. Demeester 's MOTION for Hearing Pre-Trial James Hearing
- 131 Defendant Graham R. Taylor 's MOTION for James Hearing
- 135 Defendant Graham R. Taylor 's MOTION to Sever Defendant
- 137 Defendant Graham R. Taylor 's MOTION to Dismiss Indictment/Information
- 148 Defendant Dennis B. Evanson 's MOTION to Suppress Evidence Seized Pursuant to Two Search Warrants



156 Defendant Brent H. Metcalf 's MOTION to Dismiss Indictment/Information  
Count 9

DATED this 30th day of August, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "David Nuffer", is written over a horizontal line.

DAVID NUFFER

United States Magistrate Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office, and that a copy of the foregoing Order was sent to all parties named below, this 2<sup>nd</sup> day of June, 2006.

Rodney G. Snow  
Clyde, Snow, Sessions & Swenson  
201 S. Main, Suite 1300  
Salt Lake City, UT 84111

Robert G. Chadwell  
McKay Chadwell, PLLC  
600 University Street, Suite 1601  
Seattle, WA 98101

Robert K. Hunt  
Utah Federal Defenders  
46 W. Broadway, Suite 110  
Salt Lake City, UT 84101

Christopher J. Cannon  
Sugarman & Cannon  
44 Montgomery Street, Suite 2080  
San Francisco, CA 94104

Max D. Wheeler  
Snow, Christiansen & Martineau  
PO Box 45000  
Salt Lake City, UT 84145-5000

Stephen McCaughey  
10 W. Broadway  
Suite 650  
Salt Lake City, UT 84101

/s/ Janet S. Larson

FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

**AUG 01 2006**  
**MARKUS B. ZIMMER, CLERK**  
BY                      DEPUTY CLERK

UNITED STATES OF AMERICA, )

Plaintiff(s), )

v. )

JAN HAMMITT )

Defendant(s). )

Case No. 2:05-CR-857 TC

**CONSENT TO ENTRY OF PLEA  
OF GUILTY BEFORE THE  
MAGISTRATE JUDGE AND  
ORDER OF REFERENCE**

Pursuant to 28 U.S.C. § 636(b)(3), the defendant, JAN HAMMITT, after consultation and agreement with counsel, consents to United States Magistrate Judge Samuel Alba accepting defendant's plea of guilty and to the Magistrate Judge conducting proceedings pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The defendant also acknowledges and understands that sentencing on his plea of guilty will be before the assigned District Judge after a pre-sentence investigation and report, and compliance with Fed.R.Crim.P. 32.

The United States, by and through the undersigned Assistant United States Attorney, consents to the Magistrate Judge conducting plea proceedings pursuant to Fed.R.Crim.P. 11, and accepting the defendant's plea of guilty as indicated above, pursuant to such

proceedings.

DATED this 1st day of August, 2006.

Jan Tucker Hamilton  
Defendant

William K. L. [Signature]  
Attorney for Defendant

[Signature]  
Assistant United States Attorney

**ORDER OF REFERENCE**

Pursuant to 28 U.S.C. § 636(b)(3), and the consent of the parties above mentioned, including the defendant,

**IT IS HEREBY ORDERED** that United States Magistrate Judge Samuel Alba shall hear and conduct plea rendering under Fed.R.Crim.P. 11, and may accept the plea of guilty from the defendant pursuant thereto after full compliance with Fed.R.Crim.P. 11.

DATED this \_\_\_\_\_ day of August, 2006

BY THE COURT:

\_\_\_\_\_  
Tena Campbell  
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

STEVE PYEATT,  
Defendant.

ORDER  
AND  
MEMORANDUM DECISION

Case No. 2:05-CR-890 TC

Defendant Steve Pyeatt moves for dismissal of the indictment against him for violation of his right to a speedy trial under 18 U.S.C. § 3161(c). He seeks dismissal with prejudice, in accordance with 18 U.S.C. § 3162, contending that the government failed to bring him to trial within the seventy-day statutory period. Although the court finds that a violation of the Speedy Trial Act occurred (seventy-eight days, or eight days over the statutory maximum, had elapsed when Pyeatt filed his motion to dismiss), the court dismisses the case without prejudice.

**FACTUAL BACKGROUND**

On December 7, 2005, Steve Pyeatt was indicted on one count of “knowing and intentionally possess[ing] a list I chemical, phosphorus, knowing or having reason to believe that it will be used to manufacture methamphetamine, a Schedule II controlled substance.” (Indictment (Dkt # 1).) The indictment arose out of a search and arrest of Pyeatt on January 25, 2005, for violation of his parole agreement (Pyeatt had been convicted in state court for a drug offense involving methamphetamine). On that same day, Pyeatt was taken back into state

custody. On January 18, 2006, more than one month after his indictment and more than one year after his arrest by state authorities, Pyeatt appeared before a federal magistrate judge and elected to remain in state, rather than federal, custody. He is still in state custody, purportedly in part because the Utah Board of Pardons and Parole has declined to release him on parole while federal charges are pending.

On February 15, 2006, Pyeatt filed a motion to suppress. On June 15, 2006, the court issued an order denying the motion to suppress. No other motions were filed. Typically, the court sets a trial date at the same time it issues an order denying a motion to suppress. Such a date acts as a triggering mechanism that reminds the United States to work within the Speedy Trial Act deadline. But through inadvertence, on the part of all parties involved (government, defense, and the court), no trial date was set.

On August 4, 2006, Pyeatt filed a Motion to Dismiss Pursuant To 18 U.S.C. § 3161(c) For Speedy Trial Violation.

### **ANALYSIS**

The Speedy Trial Act, 18 U.S.C. § 3161 et seq., requires that a criminal defendant be tried within seventy days of the filing of the information or indictment or the defendant's appearance before a judicial officer, whichever comes later. 18 U.S.C. § 3161(c)(1). In Pyeatt's case, the seventy day period began to run on January 18, 2006, when he appeared before the magistrate judge. Based on a calculation of non-excluded days (following the requirements set forth in § 3161(h)), there is no dispute that Pyeatt was not brought to trial within the seventy day statutory period.

Eight days after the period expired, Pyeatt filed his motion to dismiss under 18 U.S.C.

§ 3162, which reads, in relevant part, as follows:

If a defendant is not brought to trial within the time limit required by section 3161(c), the information or indictment shall be dismissed on motion of the defendant. . . . In determining whether to dismiss the case with or without prejudice, the court shall consider, among others, each of the following factors: the seriousness of the offense; the facts and circumstances of the case which led to the dismissal; and the impact of a reprosecution on the administration of this chapter and on the administration of justice.

18 U.S.C. § 3162(a)(2) (emphasis added).

Given the undisputed violation of the Act, the court must dismiss the indictment against Pyeatt. But “[w]hile dismissal of the indictment is mandatory, the district court retains discretion to determine whether the indictment is dismissed with or without prejudice.” United States v. Cano-Silva, 402 F.3d 1031, 1034 (10th Cir. 2005).

### **Seriousness of the offense**

Pyeatt is charged with a felony drug offense: possession of a list I chemical (phosphorus) with intent to manufacture methamphetamine. The offense with which Pyeatt is charged is sufficiently serious to weigh in favor of dismissal without prejudice. See United States v. Saltzman, 984 F.2d 1087, 1089, 1093 (10th Cir. 1993) (“Obtaining [pre-cursor chemical] with the intent to manufacture methamphetamine is a serious drug-related crime.”). Although Pyeatt was convicted once before for manufacturing methamphetamine, the conviction was ten years ago, so this does not weigh in favor of the government.

### **Facts and Circumstances Leading to Dismissal**

When analyzing the facts and circumstances leading to dismissal, “the court should focus ‘on the culpability of the delay-producing conduct.’” Saltzman, 984 F.2d at 1093 (quoting United States v. Hastings, 847 F.2d 920, 925 (1st Cir. 1988)). Here, the failure to bring Pyeatt to trial

within the seventy-day period was due to inadvertence. And all parties involved, including the court, had a role in the oversight. Certainly, “the Government bears the burden of ensuring the Defendant’s speedy trial rights are not violated.” Id. But there is nothing in the record showing an intentional delay or a pattern of dilatory conduct on the part of the United States Attorney’s office. And “[a] defendant who waits passively while the time runs has less claim to dismissal with prejudice than does a defendant who demands, but does not receive, prompt attention.” Id. at 1093-94 (quoting United States v. Fountain, 840 F.2d 509, 513 (7th Cir. 1988)). See also United States v. Wright, 6 F.3d 811, 814 (D.C. Cir. 1993) (“While the Government bears a large part of the responsibility for bringing a defendant to trial within the statutory period, the Act does not require the court to consider the Government’s ‘burden’ in the prejudice inquiry.”).

### **Impact of a Re-Prosecution**

As for the third statutory factor, the court should consider “the prejudice suffered by the defendant from the delay.” Saltzman, 984 F.2d at 1094.

In this case, the delay was eight days. The length of delay is relatively insignificant compared to other cases dealing with Speedy Trial Act violations. See, e.g., United States v. Mancia-Perez, 331 F.3d 464, 470 (5th Cir. 2003) (holding that sixty-three day delay was not serious or severe); United States v. Williams, 314 F.3d 552, 560 (11th Cir. 2002) (holding that “minimal” eight-day delay required dismissal without prejudice, and if delay were calculated to be sixty-eight days, the violation “was not so substantial per se as to require dismissing the charges in the complaint with prejudice”); United States v. Wright, 6 F.3d 811, 813, 816 (D.C. Cir. 1993) (affirming dismissal without prejudice when statutory period was exceeded by seventeen days).



Pyeatt contends that the court should consider the amount of time he was held in custody before he was indicted (approximately eleven months). He claims that the impact on the administration of justice weighs in his favor. According to Pyeatt, he has been prejudiced because

he has been held in limbo in the state prison system, [where] they are waiting on a determination of his federal case. There is no prejudice to the Government if this matter is dismissed with prejudice because Pyeatt has essentially been punished for the alleged offense given all the time he has served in state custody because of this matter and the fact [that] it continues to remain unresolved. . . .

(Def.'s Mem. Supp. (Dkt # 35) at 4-5.) At the hearing on the motion to dismiss, counsel for Pyeatt represented that the Utah Board of Pardons and Parole more likely than not would have released Pyeatt on parole by now if it were not for the pending federal charges. But the time he has spent in custody is not necessarily attributable to the federal government—he was arrested and placed in custody for unrelated violations of his parole agreement. And there is no way to determine what the Board would have done if Pyeatt had been indicted earlier<sup>1</sup> or brought to trial within the seventy-day period. All that is clear is that Pyeatt was held in custody eight days beyond the Speedy Trial Act deadline. That is simply not enough to justify dismissal with prejudice. Moreover, nothing in the record suggests that Pyeatt's defense has been compromised by the delay.

### **CONCLUSION**

Based on a clear violation of the Speedy Trial Act, the case must be dismissed. But, based on a balancing of the above factors, the court finds that dismissal without prejudice is

---

<sup>1</sup>There is no claim that the United States violated the Speedy Trial Act by indicting Pyeatt in December 2005.

warranted. See Salzman, 984 F.2d at 1094 (“The [United States] Supreme Court . . . emphasizes that dismissal without prejudice is not a toothless sanction but forces the Government to obtain a new indictment and raises potential statute of limitations problems.”)

**ORDER**

For the reasons set forth above, it is hereby ORDERED that the Indictment against Steve Pyeatt is DISMISSED WITHOUT PREJUDICE.

DATED this 30th day of August, 2006.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL  
United States District Judge

# UNITED STATES DISTRICT COURT

Central

District of

FILED  
U.S. DISTRICT COURT  
Utah

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

2006 AUG 28 P 1:54

V.

Vicki Lynn Rhoads

DISTRICT OF UTAH

Case Number: DUTX205CR000934-001

USM Number: 13290-081

DEPUTY CLERK

Frank Berardi

Defendant's Attorney

## THE DEFENDANT:

☒ pleaded guilty to count(s) Count 2 of the Indictment

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 922(g)(3)	User or Addict of Controlled Substance in Possession of Firearm		2

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

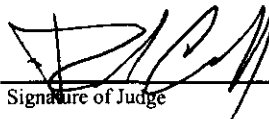
☐ The defendant has been found not guilty on count(s) \_\_\_\_\_

☒ Count(s) 1, 2 ☒ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/28/2006

Date of Imposition of Judgment



Signature of Judge

Paul Cassell

US District Judge

Name of Judge

Title of Judge

Date

8/29/06

DEFENDANT: Vicki Lynn Rhoads  
CASE NUMBER: DUTX205CR000934-001

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

78 months

☒ The court makes the following recommendations to the Bureau of Prisons:

Placement in the Dublin, Ca. facility to facilitate family visitation and intensive drug treatment.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Vicki Lynn Rhoads  
CASE NUMBER: DUTX205CR000934-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Vicki Lynn Rhoads

CASE NUMBER: DUTX205CR000934-001

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant will submit to drug testing as directed by the probation office, and pay a one-time \$115 fee to partially defer the costs of collection and testing.
2. The defendant shall participate in drug abuse treatment under a copayment plan as directed by the United States Probation Office and shall not possess or consume alcohol during the course of treatment, nor frequent business where alcohol is the chief item of order.
3. The defendant shall participate in a mental health treatment program under a copayment plan as directed by the probation office, take any mental health medications as prescribed, and not possess or consume alcohol, nor frequent businesses where alcohol is the chief item of order, during the course of treatment or medication.

DEFENDANT: Vicki Lynn Rhoads

CASE NUMBER: DUTX205CR000934-001

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ <u>0.00</u>	\$ <u>0.00</u>
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Vicki Lynn Rhoads  
CASE NUMBER: DUTX205CR000934-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.



Pages 7 - 10

are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

---

TIMOTHY J. HOOPER and CINDY  
HOOPER,

Plaintiffs,

vs.

NEW CENTURY MORTGAGE, et al.,

Defendants.

ORDER

Case No. 2:05-CV-484 TC

---

It is hereby ORDERED that the Plaintiffs and Defendants Litton Loan Servicing (Litton), Deutsche Bank National Trust Company (Deutsche Bank), and Scott Lundberg & Associates (Lundberg) are to mediate their claims through the ADR program set up by the District of Utah. The mediation shall occur no later than September 25, 2006. Litton's, Deutsche Bank's, and Lundberg's Motions to Dismiss are taken under advisement. A status conference is scheduled for October 25, 2006, at 2:30 p.m.

Dated this 30th day of August, 2006.

BY THE COURT:



TENA CAMPBELL  
United States District Judge

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH    CENTRAL DIVISION**

---

**STATE OF UTAH and JUAB  
COUNTY,**

**Plaintiffs,**

**vs.**

**UNITED STATES OF AMERICA,  
DEPARTMENT OF INTERIOR,  
and BUREAU OF LAND  
MANAGEMENT,**

**Defendants.**


**ORDER ADMINISTRATIVELY  
CLOSING THIS CASE**

**Case No. 2:05-CV-00714 PGC**

---

IT IS HEREBY ORDERED that the above captioned case filed be **administratively** closed and removed from the list of active pending cases. The parties have represented that the Answers to the complaint cannot be provided to the court until after the Tenth Circuit issues its *en banc* decision in *San Juan County, Utah v. United States*. Defendants shall file their answer or otherwise respond to plaintiffs' complaint within fifteen days of the issuance of the Tenth Circuit mandate. Until that point, the case is to remain administratively closed. Plaintiffs are requested to reopen this case upon motion within ten days of the issuance of the Tenth Circuit's mandate.

Dated this 28th day of August, 2006.

By   
PAUL G. CASSELL  
United States District Judge

FILED  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH 4:44

CENTRAL DIVISION

DISTRICT OF UTAH

BY: \_\_\_\_\_  
DEPUTY CLERK

MATHEW B. CHALKER,

Plaintiff,

vs.

RATHEON COMPANY; et al.,  
INC.,

Defendants.

Case No. 2:05-CV-869 TS

**ORDER TO SHOW CAUSE**

This matter was scheduled for oral argument to be held on Plaintiff's Motion for Leave to Conduct Discovery, at 9:00 a.m. on August 29, 2006. Kenneth B. Grimes, counsel of record for Plaintiff Mathew B. Chalker, having failed to appear at said hearing,

IT IS HEREBY ORDERED that Mr. Grimes show cause in writing within ten days as to why: 1) he should not be held in contempt for failing to appear, 2) why sanctions should not be imposed, and 3) why the Motion for Leave to Conduct Discovery should not be denied.

Failure to respond to said Order will result in sanctions being imposed, and may result in the Motion for Leave to Conduct Discovery being denied.

DATED this 29<sup>th</sup> day of August, 2006.

BY THE COURT:



SAMUEL ALBA  
United States Magistrate Judge

UNITED STATES DISTRICT COURT

FILED  
U.S. DISTRICT COURT

Central

District of

Utah

UNITED STATES OF AMERICA

V.

Arnaldo Castro-Marroquin

JUDGMENT IN A CRIMINAL CASE

DISTRICT OF UTAH

Case Number: DUTX 2:06CR000238-001

USM Number:

Vanessa Ramos-Smith

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) I-Indictment

☐ pleaded nolo contendere to count(s)  
which was accepted by the court.

☐ was found guilty on count(s)  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8USC§1326	Re-Entry of Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s) is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/28/2006

Date of Imposition of Judgment

Dee Benson

Signature of Judge

Dee Benson

Name of Judge

U.S. District Judge

Title of Judge

8/29/2006

Date

DEFENDANT: Arnaldo Castro-Marroquin  
CASE NUMBER: DUTX 2:06CR000238-001

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

15 months.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Arnaldo Castro-Marroquin  
CASE NUMBER: DUTX 2:06CR000238-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Arnaldo Castro-Marroquin  
CASE NUMBER: DUTX 2:06CR000238-001

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall not reenter the United States illegally. In the event that the defendant should be released from confinement without being deported, he shall contact the United States Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the United States Probation Office in the District of Utah within 72 hours of his arrival in the United States.



DEFENDANT: Arnaldo Castro-Marroquin  
CASE NUMBER: DUTX 2:06CR000238-001

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ 0.00	\$ 0.00	
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Amaldo Castro-Marroquin  
CASE NUMBER: DUTX 2:06CR000238-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 10

are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document

# UNITED STATES DISTRICT COURT

Central

District of

FILED  
U.S. DISTRICT COURT  
Utah

UNITED STATES OF AMERICA

V.

Heron Plaza-Gallegos

## JUDGMENT IN A CRIMINAL CASE

2006 AUG 29 P 8:50

DISTRICT OF UTAH

Case Number: DUTX206CR000270-001

BY: DEPUTY CLERK

USM Number: 13532-081

Henri Sisneros

Defendant's Attorney

### THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Indictment.

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8 U.S.C. §1324	Transporting Illegal Aliens for Private Financial Gain		1
(a)(1)(A)(ii) and			
(a)(1)(B)(I)			

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_

☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/28/2006

Date of Imposition of Judgment

Signature of Judge

Dale A. Kimball

U.S. District Judge

Name of Judge

Title of Judge

Date

August 29, 2006

DEFENDANT: Heron Plaza-Gallegos  
CASE NUMBER: DUTX206CR000270-001

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

15 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

That the defendant be incarcerated in a facility in Arizona to facilitate family visitation.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Heron Plaza-Gallegos  
CASE NUMBER: DUTX206CR000270-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Heron Plaza-Gallegos

CASE NUMBER: DUTX206CR000270-001

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall not illegally re-enter the USA. If the defendant returns to the USA during the period of supervision, he is instructed to contact the U. S. Probation Office in the District of Utah within 72 hours of arrival in the USA.

## CRIMINAL MONETARY PENALTIES

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.



DEFENDANT: Heron Plaza-Gallegos  
CASE NUMBER: DUTX206CR000270-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 10

are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document

# UNITED STATES DISTRICT COURT

Central

District of

FILED  
U.S. DISTRICT COURT  
Utah

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE 2006 AUG 29 P 3:36

V.

Wilmer Hernandez-Perez

Case Number: DUTX 2:06CR000338-001

USM Number: 13639-081

Jessica Stengel

Defendant's Attorney

## THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Indictment

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8 USC § 1326	Reentry of Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_

☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/25/2006

Date of Imposition of Judgment

*Tena Campbell*

Signature of Judge

Tena Campbell

Name of Judge

US District Court Judge

Title of Judge

8-29-2006

Date

DEFENDANT: Wilmer Hernandez-Perez  
CASE NUMBER: DUTX 2:06CR000338-001

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

5 Months

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Wilmer Hernandez-Perez  
CASE NUMBER: DUTX 2:06CR000338-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

12 Months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Wilmer Hernandez-Perez  
CASE NUMBER: DUTX 2:06CR000338-001

**SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall not illegally re-enter the United States.

DEFENDANT: Wilmer Hernandez-Perez  
 CASE NUMBER: DUTX 2:06CR000338-001

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ <u>0.00</u>	\$ <u>0.00</u>	
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Wilmer Hernandez-Perez  
CASE NUMBER: DUTX 2:06CR000338-001

## SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.



Pages 7 - 10  
are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document

MANNY GARCIA, #3799  
Attorney for Defendant Eric Ruiz Aguilar  
150 South 600 East #5-C  
Salt Lake City, Utah 84102  
Telephone: (801) 322-1616  
Fax: (801) 322-1628

IN THE UNITED STATES DISTRICT COURT,  
DISTRICT OF UTAH, CENTRAL DIVISION

---

UNITED STATES OF AMERICA,	:	ORDER EXTENDING TIME
	:	FOR FILING MOTIONS and
	:	STRIKING THE TRIAL DATE
vs.	:	
	:	Case no.2:06CR00352 DAK
	:	
MIRKA STJEPANOVIC,	:	Judge DALE A. KIMBALL
	:	
Defendant.	:	

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This matter coming before the court on Defendant's motion,  
IT IS HEREBY ORDERED

1. That the deadline for the filing of pre-trial motions in this matter be extended from August 28<sup>th</sup>, 2006, until September 29, 2006.

2. The court hereby continues the trial date until the 6th day of December, 2006 at 8:30 a.m. The court further finds that the time between October 5th, 2006, and the new trial date of December 6, 2006, is excluded from the time calculation under the Speedy Trial Act. The Court further finds that the ends of justice are served by taking this action and taking this additional time and this outweighs the public interest in a speedy trial pursuant to 18

U.S.C. Section 3161 (h) (A) .

Dated this 30th day of August, 2006.

BY THE COURT:

A handwritten signature in black ink, reading "Dale A. Kimball". The signature is written in a cursive, flowing style. The first name "Dale" is prominent, followed by a middle initial "A." and the last name "Kimball".

---

DISTRICT COURT JUDGE

Deirdre A. Gorman  
205 26<sup>th</sup> Street, Suite 32  
Ogden Utah 84401

Julie George  
P.O. Box 112338  
Salt Lake City, Utah 84147

Colleen K. Coebergh  
348 East South Temple  
Salt Lake City, Utah 84111

Mark J. Gregersen  
3855 South 500 West Ste.M  
Salt Lake City,Utah 84115

Richard P. Mauro  
43 East 400 South  
Salt Lake City,Utah 84111

Candice A. Johnson  
10 West Broadway Ste.210  
Salt Lake City,Utah 84101

MANNY GARCIA, #3799  
Attorney for Defendant  
150 South 600 East #5-C  
Salt Lake City, Utah 84102  
Telephone: (801) 322-1616  
Fax: (801) 322-1628

IN THE UNITED STATES DISTRICT COURT,  
DISTRICT OF UTAH, CENTRAL DIVISION

---

UNITED STATES OF AMERICA,	:	<i>EX-PARTE ORDER</i> AUTHORIZING THE
	:	APPOINTMENT OF AN INVESTIGATOR
	:	
vs.	:	
	:	Case no. 2:06-CR-00352-DAK
	:	
MIRKA STJEPANOVIC,	:	Judge DALE A. KIMBALL
	:	
Defendant.	:	

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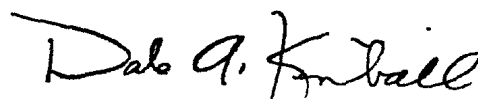
Upon *ex parte* motion of defendant, Mirka Stjepanovic, by and through her attorney, MANNY GARCIA, with the court being fully advised in the premises and good cause appearing;

IT IS HEREBY ORDERED that an issuance of CJA form 21 for the appointment of Greg Markham, as an investigator, be and hereby is approved;

IT IS FURTHER ORDERED that the fees of such investigator shall not exceed \$2,500.00 without the prior approval and authorization of the Court.

Dated this 30th day of August, 2006

BY THE COURT:



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DISTRICT COURT JUDGE

# UNITED STATES DISTRICT COURT

Central

Dist. of

Utah

UNITED STATES OF AMERICA

U.S. DISTRICT COURT

AMENDED JUDGMENT IN A CRIMINAL CASE

V.

2006 AUG 29 P 1:53

Francisco Javier Aguirre-Gutierrez

Case Number: DUTX206CR000354-001

DISTRICT OF UTAH

USM Number: 90241-008

Chelsea Koch

Date of Original Judgment: 8/7/2006  
(Or Date of Last Amended Judgment)

DEPUTY CLERK Defendant's Attorney

## Reason for Amendment:

- |   |  |
|---|--|
| <input type="checkbox"/> Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))              | <input type="checkbox"/> Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))  |
| <input type="checkbox"/> Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))     | <input type="checkbox"/> Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))                        |
| <input type="checkbox"/> Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))          | <input type="checkbox"/> Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))       |
| <input checked="" type="checkbox"/> Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36) | <input type="checkbox"/> Direct Motion to District Court Pursuant <input type="checkbox"/> 28 U.S.C. § 2255 or <input type="checkbox"/> 18 U.S.C. § 3559(c)(7) |
|   | <input type="checkbox"/> Modification of Restitution Order (18 U.S.C. § 3664)  |

## THE DEFENDANT:

- ☒ pleaded guilty to count(s) 1 of the Indictment
- ☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.
- ☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
8 USC § 1326	Re-Entry of Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) \_\_\_\_\_
- ☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/11/2006

Date of Imposition of Judgment



Signature of Judge

Paul Cassell

US District Judge

Name of Judge

Title of Judge

8/29/06

Date

DEFENDANT: Francisco Javier Aguirre-Gutierrez  
CASE NUMBER: DUTX206CR000354-001

Judgment — Page 2 of 10

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of

6 months

☒ The court makes the following recommendations to the Bureau of Prisons:

Placement in a facility in Phoenix, AZ. to facilitate family visitation

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_ .

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on \_\_\_\_\_ .

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_ with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Francisco Javier Aguirre-Gutierrez

CASE NUMBER: DUTX206CR000354-001

### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of  
12 months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### **STANDARD CONDITIONS OF SUPERVISION**

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record, personal history, or characteristics and shall permit the probation officer to make such notifications and confirm the defendant's compliance with such notification requirement.



DEFENDANT: Francisco Javier Aguirre-Gutierrez  
CASE NUMBER: DUTX206CR000354-001

Judgment—Page 4 of 10

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall not illegally re-enter the United States. If the defendant returns to the United States during the period of supervision, he is instructed to contact the United States Probation Office in the District of Utah within 72 hours of arrival in the United States.

DEFENDANT: Francisco Javier Aguirre-Gutierrez

CASE NUMBER: DUTX206CR000354-001

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the following total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

<b>TOTALS</b>	\$ _____	\$ _____
---------------	----------	----------

☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for ☐ fine ☐ restitution.

☐ the interest requirement for ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Francisco Javier Aguirre-Gutierrez  
CASE NUMBER: DUTX206CR000354-001

Judgment — Page 6 of 10

## SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 10

are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

FILED  
U.S. DISTRICT COURT

2006 AUG 30 A 11:13

UNITED STATES OF AMERICA

Plaintiff,

TONY JAMES THARP

Defendant

:  
:  
:  
:  
:  
:  
:  
:  
:  
:

DISTRICT OF UTAH  
**ORDER MODIFYING  
CONDITIONS OF RELEASE**

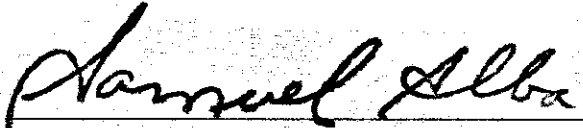
**2:06-CR-359 PGC**

Based upon the order of the Court at the review hearing August 28, 2006,  
Pretrial Services has verified the defendant's residence; therefore,

It is hereby ordered that the defendant be released from Cornell Corrections Center  
to maintain residence at the listed address and not change without prior permission of  
Pretrial Services. All other conditions are to remain the same.

DATED this 30<sup>th</sup> day of August, 2006

BY THE COURT:



Honorable Samuel Alba  
Chief United States Magistrate Judge

**United States District Court  
for the District of Utah**

**Criminal Pretrial Instructions**

The prosecution has an open file policy.

Issues as to witnesses do not exist in this matter, but defense counsel will make arrangements for subpoenas, if necessary, as early as possible to allow timely service.

Counsel must have all exhibits premarked by the clerk for the district judge before trial.

If negotiations are not completed for a plea by the plea deadline, the case will be tried.

In cases assigned to Judge Cassell, counsel are directed to meet and confer about the possibility of a plea, and before the deadline report to chambers whether the matter will proceed to trial.

**United States District Court  
for the District of Utah**

**Criminal Pretrial Instructions**

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**United States District Court  
for the District of Utah**

**Criminal Pretrial Instructions**

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If negotiations are not completed for a plea by the plea deadline, the case will be tried.

In cases assigned to Judge Cassell, counsel are directed to meet and confer about the possibility of a plea, and before the deadline report to chambers whether the matter will proceed to trial.



FILED  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

DISTRICT OF UTAH

---

NORMAN EUGENE REED,	)	BY: <u>DEPUTY CLERK</u>
	)	
Plaintiff,	)	Case No. 2:06-CV-9 PGC
	)	
v.	)	District Judge Paul G. Cassell
	)	
RANDY LONG et al.,	)	<b>O R D E R</b>
	)	
Defendants.	)	Magistrate Judge Samuel Alba

---

Plaintiff, inmate Norman Eugene Reed, filed a civil rights complaint.<sup>1</sup> He alleges that Washington County Jail (WCJ) staff kept him at the jail although his mental health problems could not be treated there, did not allow him to present a defense during a disciplinary hearing, and transferred him away before he could appeal the disciplinary action. He further asserts that Utah State Prison (USP) staff: aggravated his mental health problems in a number of ways; retaliated against him by lowering his classification and housing status; placed him in a restraint chair without proper precautions; trumped up a manipulation-of-housing disciplinary charge against him; are insufficient in numbers to give proper medical care; do not provide adequate and sanitary medical and psychiatric facilities and equipment; do not adopt and implement proper procedures and standards for medical

---

<sup>1</sup>See 42 U.S.C.S. § 1983 (2006).

care; do not give him group therapy when he is in protective custody and maximum security; interfere with his free exercise of religion; and violated the Americans with Disabilities Act.

Because Plaintiff did not adequately plead that he had exhausted his jail and prison grievances as to each of these claims (except his assertion that his prison disciplinary hearing, finding him guilty of manipulating housing and violating a direct order, was flawed), the Court ordered him to show cause why his complaint should not be dismissed.

Plaintiff responded that his failure to exhaust should be excused because he was in solitary confinement without access to writing materials in WCJ and because the USP's grievance process is not "certified." Plaintiff's arguments are unavailing. First, he does not explain why he did not try to grieve his claims at WCJ after being released from solitary confinement. And, second, he offers no authority to support his assertion that USP's grievance process must be certified to be valid. The law is simply that, if a correctional facility offers a grievance process, the grievance process must be completed before a prisoner may bring a prison-conditions lawsuit.<sup>2</sup>

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<sup>2</sup>See *id.* § 1997e(a) ("No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal Law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.").

As the Court stated in its order to show cause, to pursue his case, Plaintiff must have already totally exhausted all his claims through every jail and prison grievance level.<sup>3</sup> Section 1997e(a) prescribes a pleading prerequisite for prisoners.<sup>4</sup> Consequently, a complaint that does not properly allege the exhaustion of administrative remedies "'is tantamount to one that fails to state a claim upon which relief may be granted.'"<sup>5</sup> A prisoner plaintiff must

(1) plead his claims with "a short and plain statement . . . showing that [he] is entitled to relief," in compliance with Fed. R. Civ. P. 8(a)(2), and (2) "attach[] a copy of the applicable administrative dispositions to the complaint, or, in the absence of written documentation, describe with specificity the administrative proceeding and its outcome."<sup>6</sup>

Absent "'particularized averments concerning exhaustion showing the nature of the administrative proceeding and its outcome, the action must be dismissed under § 1997e.'"<sup>7</sup>

Moreover, the Tenth Circuit reads § 1997e(a) as a "total exhaustion" rule, meaning that "'when multiple prison condition

---

<sup>3</sup>See *id.*

<sup>4</sup>See *Steele v. Fed. Bureau of Prisons*, 355 F.3d 1204, 1210 (10th Cir. 2003).

<sup>5</sup>*Id.* (quoting *Rivera v. Allin*, 144 F.3d 719, 731 (11th Cir. 1998)).

<sup>6</sup>*Id.* (alterations in original) (quoting *Knuckles El v. Toombs*, 215 F.3d 640, 642 (6th Cir. 2000)).

<sup>7</sup>*Id.* at 1211 (quoting *Knuckles El*, 215 F.3d at 642).

claims have been joined . . . § 1997e(a) requires that all available prison grievance remedies must be exhausted as to all of the claims.'"<sup>8</sup> So, though Plaintiff fully grieved his claim about the Utah State Prison disciplinary hearing, he has not met the pleading requirement of specifically detailing all three levels of grievances and responses as to any of his many other claims. And, some of his grievances have been denied because of Plaintiff's failure to meet procedural requirements--i.e., penning his own grievances and filing on time.

Again, his failure to meet procedural requirements has been addressed by the Tenth Circuit, which has held that the exhaustion requirement "contains a procedural default concept."<sup>9</sup> When a prisoner fails to meet a procedural rule that bars him from seeking relief--e.g., personally writing a grievance or observing grievance time limits--the relief becomes unavailable, and he is unable to exhaust his claims.<sup>10</sup>

Allowing prisoners to proceed to federal court simply because they have filed a [procedurally] barred grievance would frustrate the PLRA's intent to give prison officials the opportunity to take corrective action that may satisfy inmates and reduce

---

<sup>8</sup>*Ross v. County of Bernalillo*, 365 F.3d 1181, 1188-89 (10th Cir. 2004) (quoting *Graves v. Norris*, 218 F.3d 884, 885 (8th Cir. 2000)).

<sup>9</sup>*Id.* at 1186.

<sup>10</sup>*Id.*

the need for litigation, to filter out frivolous claims, and to create an administrative record that would facilitate subsequent judicial review.<sup>11</sup>

So, although Plaintiff went "through the formality of submitting a [procedurally] barred grievance, he 'may not successfully argue that he ha[s] exhausted his administrative remedies by, in essence, failing to employ them.'"<sup>12</sup>

"[T]he presence of unexhausted claims in [Plaintiff's] complaint require[s this C]ourt to dismiss his action in its entirety without prejudice."<sup>13</sup> IT IS THEREFORE ORDERED that Plaintiff's complaint is dismissed for failure to adequately plead that he exhausted all his claims.

DATED this 25th day of August, 2006.

BY THE COURT:



---

PAUL G. CASSELL  
United States Court Judge

---

<sup>11</sup>Id.

<sup>12</sup>Id.

<sup>13</sup>Id. at 1189.

United States District Court  
for the  
District of Utah  
August 30, 2006

\*\*\*\*\*MAILING CERTIFICATE OF THE CLERK\*\*\*\*\*

RE: Norman Eugene Reed V Randy Long, et al  
2:06cv9 PGC

Inmate Norman R. Reed, # 20794  
Utah State Prison  
Draper, UT 84020

---

Kim Forsgren,

---

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**  
**CENTRAL DIVISION**

---

**JANET JAMISON,**

**Plaintiff,**

**vs.**

**SMITH'S FOOD AND DRUG  
CENTERS, INC., JENNIFER  
BUTTRICK, JEFF SHORT, ZANE DAY,**

**Defendants.**

**ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL**

**Case No. 2:06cv514**

**Judge Tena Campbell**

**Magistrate Paul M. Warner**

---

This matter was referred to Magistrate Judge Paul M. Warner by District Judge Tena Campbell pursuant to 28 U.S.C. § 636(b)(1)(B). Before the court is Plaintiff Janet Jamison's ("Plaintiff") two Motions for Appointment of Counsel [docket nos. 4 and 8]. Plaintiff filed a complaint against Defendants Smith's Food and Drug Centers, Inc., Jennifer Buttrick, Jeff Short, and Zane Day (collectively, "Defendants") alleging employment discrimination under the Americans with Disabilities Act. The court previously granted Plaintiff's application to proceed in forma pauperis under 28 U.S.C. § 1915.

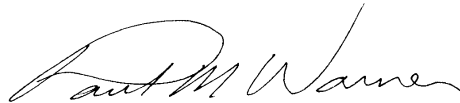
As a civil litigant, Plaintiff has no constitutional right to counsel. *See Moomchi v. Univ. of N.M.*, No. 95-2140, 1995 WL 736292, at \*3 (10th Cir. Dec. 8, 1995) (unpublished); *Carper v. DeLand*, 54 F.3d 613, 616 (10th Cir. 1995); *Bee v. Utah State Prison*, 823 F.2d 397, 399 (10th Cir. 1987). The court may, in its discretion, appoint counsel for indigent parties under 28 U.S.C. § 1915(e)(1). *See* 28 U.S.C.A. § 1915(e)(1) (West Supp. 2002); *Moomchi*, 1995 WL 736292, at

\*3; *Carper*, 54 F.3d at 617; *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991). “The burden is upon the applicant to convince the court that there is sufficient merit to his claim to warrant the appointment of counsel.” *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985).

When deciding whether to appoint counsel, a court should consider a variety of factors, “including ‘the merits of the litigant’s claims, the nature of the factual issues raised in the claims, the litigant’s ability to present his claims, and the complexity of the legal issues raised by the claims.’” *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (quoting *Williams*, 926 F.2d at 996); accord *Moomchi*, 1995 WL 736292, at \*3; *McCarthy*, 753 F.2d at 838-39. Considering the above factors, the court concludes that in this matter (1) it is not clear yet whether Plaintiff has asserted a colorable claim, (2) the issues involved are not complex, and (3) Plaintiff is able to adequately pursue this matter. Therefore, the court DENIES Plaintiff’s first Motion for Appointment of Counsel [docket no. 4] and finds the second Motion for Appointment of Counsel [docket no. 8] to be MOOT.

DATED this 30th day of August, 2006.

BY THE COURT:

A handwritten signature in cursive script, reading "Paul M. Warner".

---

Paul M. Warner  
United States Magistrate Judge



IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

---

SHAWN ALLRED,	)	
	)	
Plaintiff,	)	Case No. 2:06-CV-577 PGC
	)	
v.	)	District Judge Paul Cassell
	)	
ADULT PROBATION & PAROLE et al.,	)	<b>O R D E R</b>
	)	
Defendants.	)	Magistrate Judge Paul Warner

---

Plaintiff, Shawn Allred, filed a *pro se* prisoner civil rights complaint.<sup>1</sup> The Court has already granted Plaintiff's request to proceed without prepaying the entire filing fee.

Even so, Plaintiff must eventually pay the full \$350.00 filing fee required.<sup>2</sup> Plaintiff must start by paying "an initial partial filing fee of 20 percent of the greater of . . . the average monthly deposits to [his inmate] account . . . or . . . the average monthly balance in [his inmate] account for the 6-month period immediately preceding the filing of the complaint."<sup>3</sup> Under this formula, Plaintiff must pay \$5.72. If this initial partial fee is not paid within thirty days, or if Plaintiff has not shown he has no means to pay the initial partial filing fee, the complaint will be dismissed.

Plaintiff must also complete the attached "Consent to Collection of Fees" form and submit the original to the inmate

---

<sup>1</sup>See 42 U.S.C.S. § 1983 (2006).

<sup>2</sup>See 28 *id.* § 1915(b)(1).

<sup>3</sup>*Id.*

funds accounting office and a copy to the Court within thirty days so the Court may collect the balance of the entire filing fee Plaintiff owes. Plaintiff is also notified that pursuant to Plaintiff's consent form submitted to this Court, Plaintiff's correctional facility will make monthly payments from Plaintiff's inmate account of twenty percent of the preceding month's income credited to Plaintiff's account.

IT IS THEREFORE ORDERED that:

(1) Although the Court has already granted Plaintiff's application to proceed *in forma pauperis*, Plaintiff must still eventually pay \$350.00, the full amount of the filing fee.

(2) Plaintiff must pay an initial partial filing fee of \$5.72 within thirty days of the date of this Order, or his complaint will be dismissed.

(3) Plaintiff must make monthly payments of twenty percent of the preceding month's income credited to Plaintiff's account.

(4) Plaintiff shall make the necessary arrangement to give a copy of this Order to the inmate funds accounting office at Plaintiff's correctional facility.

(5) Plaintiff shall complete the consent to collection of fees and submit it to the inmate funds accounting office at

Plaintiff's correctional facility and also submit a copy of the signed consent to this Court within thirty days from the date of this Order, or the complaint will be dismissed.

DATED this 28th day of August, 2006.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Paul M. Warner", is written above a horizontal line.

PAUL M. WARNER  
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

CONSENT TO COLLECTION OF FEES FROM INMATE TRUST ACCOUNT

I, Shawn Allred (Case No. 2:06-CV-577 PGC), understand that even though the Court has granted my application to proceed *in forma pauperis* and filed my complaint, I must still eventually pay the entire filing fee of \$350.00. I understand that I must pay the complete filing fee even if my complaint is dismissed.

I, Shawn Allred, hereby consent for the appropriate institutional officials to withhold from my inmate account and pay to the court an initial payment of \$5.72, which is 20% of the greater of:

- (a) the average monthly deposits to my account for the six-month period immediately preceding the filing of my complaint or petition; or
- (b) the average monthly balance in my account for the six-month period immediately preceding the filing of my complaint or petition.

I further consent for the appropriate institutional officials to collect from my account on a continuing basis each month, an amount equal to 20% of each month's income. Each time the amount in the account reaches \$10, the Trust Officer shall forward the interim payment to the Clerk's Office, U.S. District Court for the District of Utah, 350 South Main, #150, Salt Lake City, UT 84101, until such time as the \$350.00 filing fee is paid in full.

By executing this document, I also authorize collection on a continuing basis of any additional fees, costs, and sanctions imposed by the District Court.

---

Signature of Inmate  
Shawn Allred

United States District Court  
for the  
District of Utah  
August 30, 2006

\*\*\*\*\*MAILING CERTIFICATE OF THE CLERK\*\*\*\*\*

RE: Shawn Lee Allred v Adult Probation & Parole, et al  
2:06cv577 PGC

---

Kim Forsgren,

FILED IN UNITED STATES DISTRICT  
COURT DISTRICT OF UTAH

AUG 30 2006

RECEIVED CLERK

AUG 29 2006

MARKUS B. ...MER, CLERK

DEPT. CLERK

U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

KLEIN-BECKER USA, LLC a Utah Limited Liability  
Company; KLEIN-BECKER, IP HOLDING, LLC, a  
Nevada Limited Liability Company; and BASIC  
RESEARCH, LLC, a Utah Limited Liability  
Company.

Order for Pro Hac Admission

Case No. 2:06-CV-00668

pbl

Plaintiffs,

v.

VITABASE.COM, LLC, an expired Georgia  
Limited Liability Company; COAD, INC. a  
Georgia Corporation; OB LABS; GREG HOWLETT,  
an individual, and JOHN DOES 1-10,

Defendants.

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv  
R 83-1.1(d), the motion for the admission pro hac vice of Robert J. Becerra in the United States District  
Court, District of Utah in the subject case is GRANTED.

Dated: this 30<sup>th</sup> day of August, 20 06.

U.S. District Judge

FEE PAID

FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

AUG 30 2006

RECEIVED CLERK

BY MARKUS B. ZIMMER, CLERK

AUG 29 2006

UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

U.S. DISTRICT COURT

KLEIN-BECKER USA, LLC a Utah Limited Liability  
Company; KLEIN-BECKER, IP HOLDING, LLC, a  
Nevada Limited Liability Company; and BASIC  
RESEARCH, LLC, a Utah Limited Liability  
Company.

Order for Pro Hac Admission

Case No. 2:06-CV-00668

ptc

Plaintiffs,

v.

VITABASE.COM, LLC, an expired Georgia  
Limited Liability Company; COAD, INC. a  
Georgia Corporation; OB LABS; GREG HOWLETT,  
an individual, and JOHN DOES 1-10,

Defendants.

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv  
R 83-1.1(d), the motion for the admission pro hac vice of Edward M. Joffe in the United States District  
Court, District of Utah in the subject case is GRANTED.

Dated: this 30th day of August, 20 06.

  
U.S. District Judge

FEE PAID

In the United States District Court  
for the District of Utah, Central Division

FILED  
U.S. DISTRICT COURT

2006 AUG 30 A 10: 17

JOHN A. CAMPBELL,


Plaintiff,

vs.

S.S. ADMINISTRATION,

Defendant.

DISTRICT OF UTAH

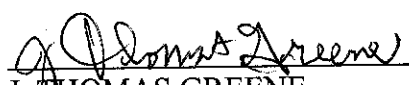
BY:   
DEPUTY CLERK

ORDER OF RECUSAL

Case No. 2:06 CV 717

I recuse myself in this case, and ask that the appropriate assignment card  
equalization be drawn by the clerk's office.

DATED this 29<sup>th</sup> day of August, 2006.

  
J. THOMAS GREENE  
UNITED STATES DISTRICT JUDGE



FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

AUG 30 2006

BY MARKUS B. ZIMMER, CLERK  
DEPUTY CLERK

UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

ARELLANO, MOISES ON BEHALF OF  
HIMSELF AND OTHERS SIMILARY SITUATED,

*Plaintiff,*

v.

KIMBALL CONSTRUCTION  
COMPANY, LLC AND KIMBALL  
STRICKLAND

*Defendants.*

ORDER FOR PRO HAC VICE  
ADMISSION

C.A. No. 2:06-cv-00726 ~~DB~~ PCC  
U.S. District Court Judge Paul G. Cassell

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of  
DUCiv R 83-1.1(d), the Motion for the Admission pro hac vice of David I. Moulton in the  
United States District Court, District of Utah in the subject case is GRANTED.

Dated: this 30<sup>th</sup> day of August, 20 06.

  
U.S. District Judge Paul G. Cassell

## UNITED STATES DISTRICT COURT

AUG 30 2006

CENTRAL

District of

MARKUS B. ZIMMER, CLERK

UNITED STATES OF AMERICA  
V.COMMITMENT TO ANOTHER  
DISTRICT

JAMES J. ROSE

## DOCKET NUMBER

## MAGISTRATE JUDGE CASE NUMBER

District of Arrest

District of Offense

District of Arrest

District of Offense

2:06-787 PHX-JAT

N-06-264 M

## CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN

☒ Indictment ☐ Information ☐ Complaint ☐ Other (specify)

charging a violation of

U.S.C. §

## DISTRICT OF OFFENSE

District of Arizona

## DESCRIPTION OF CHARGES:

Fraudulent Use of Identification Documents; Use of Counterfeit Access Devices; Mail Fraud; Wire Fraud; Conspiracy to Commit Money Laundering; Promotional Money Laundering; Concealment &amp; Disguise of Source of Funds; Monetary Transactions in Excess of \$10,000; Aid &amp; Abet

## CURRENT BOND STATUS:

- ☐ Bail fixed at \_\_\_\_\_ and conditions were not met
- ☒ Government moved for detention and defendant detained after hearing in District of Arrest
- ☐ Government moved for detention and defendant detained pending detention hearing in District of Offense
- ☐ Other (specify) \_\_\_\_\_

Representation: ☐ Retained Own Counsel ☒ Federal Defender Organization ☐ CJA Attorney ☐ NoneInterpreter Required? ☒ No ☐ Yes Language: \_\_\_\_\_

## DISTRICT OF ARIZONA

TO: THE UNITED STATES MARSHAL

You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant.

8/30/06  
Date



United States Judge or Magistrate Judge

## RETURN

This commitment was received and executed as follows:

DATE COMMITMENT ORDER RECEIVED

PLACE OF COMMITMENT

DATE DEFENDANT COMMITTED

DATE

UNITED STATES MARSHAL

(BY) DEPUTY MARSHAL

2006 AUG 28 P 4: 46

## DISTRICT OF UTAH

BY: DEPUTY CLERK

Honorable David K. Winder

YOU ARE FURTHER ORDERED not to sell, loan, give away, or otherwise dispose of your non-exempt property pending the hearing.

If you have been personally served with this order and you fail to appear,  
the court may order a warrant for your arrest.

DATED this 28<sup>th</sup> day of August, 2006.

BY THE COURT:

A handwritten signature in cursive script that reads "David K. Winder". The signature is written in dark ink and is positioned above a horizontal line.

David K. Winder, Senior Judge  
United States District Court

416.WP

# UNITED STATES DISTRICT COURT

Central

District of

Utah

FILED  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

Kenneth L. Weeks

JUDGMENT IN A CRIMINAL CASE 2006 AUG 29 P 3:37

DISTRICT OF UTAH

Case Number: DUTX 2:98CR000278-007

USM Number: 07889-081

DEPUTY CLERK

Walter F. Bugden

Defendant's Attorney

## THE DEFENDANT:

☒ pleaded guilty to count(s) 1 and 2 of the Felony Information

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 USC § 371	Conspiracy		1s
15 USC §§ 78j(b) and	Securities Fraud		2s
78ff & 17 CFR 240.10b-5			

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_

☒ Count(s) All Counts of the Indictment ☐ is ☒ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/25/2006

Date of Imposition of Judgment

Tena Campbell

Signature of Judge

Tena Campbell

Name of Judge

District Court Judge

Title of Judge

8-29-2006

Date

DEFENDANT: Kenneth L. Weeks  
CASE NUMBER: DUTX 2:98CR000278-007

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

20 Months

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends to the BOP that the defendant serve his sentence at FCI Morgantown, West Virginia.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 2 p.m. on 10/6/2006

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

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### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

60 Months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall maintain full-time, verifiable employment or participate in academic or vocational development throughout the term of supervision as deemed appropriate by the USPO.
2. The defendant shall inform any employer or prospective employer of his current convictions and supervision status.
3. The defendant shall abide by the following occupational restrictions:
  - A) The defendant shall not have direct or indirect control over the assets or funds of others,
  - B) The defendant shall not be involved in the promotion, sale or solicitation of stocks or investment instruments,
  - C) The defendant shall not be self-employed.
4. The defendant shall refrain from incurring new credit charges or opening additional lines of credit unless he is in compliance with the established payment schedule and obtains the approval of the USPO.
5. The defendant shall provide the probation officer access to all requested financial information.



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### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$ 106,000.00	\$

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ 0.00	\$ 0.00	
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☒ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal monthly (e.g., weekly, monthly, quarterly) installments of \$ 500.00 over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
- SPA of \$100.00 is due and payable immediately.  
FINE of \$106,000.00 is due immediately and shall be payable at a minimum rate of \$500.00 per month, upon release from incarceration. The Court waives interest on this fine.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 4 - 10  
are the

Statement of Reasons,  
which will be docketed  
separately as a sealed  
document